

JANICE MCCOY

MAY 16, 2012

<p style="text-align: center;">93</p> <p>1 engrossed version of House Bill 218. So I what I see in 2 front of me with House Bill 218 is not the bill that the 3 Senate debated. So I don't know what this version is 4 without -- it's saying that it's the engrossed version. 5 I think it's the filed version. 6 Q. Okay. Well. Let me ask you this: Did SB 362 7 allow, as a form of acceptable identification, student 8 identifications? 9 A. No, ma'am. 10 Q. What was the purpose of excluding that from the 11 bill? 12 MR. FREDERICK: I object to the extent 13 this seeks thoughts or mental impressions from you, 14 Senator Fraser, or other legislators or staff or to the 15 extent it requires you to reveal the substance of 16 communications with legislators, staff, state agencies, 17 TLC, and constituents, I instruct you not to answer on 18 the basis of privilege. However, to the extent that you 19 are able to identify the purpose of that portion of the 20 bill without relying on those privileged matters, you 21 can do so. 22 A. I'll assert privilege. 23 Q. (By Ms. Maranzano) Did you ever look or do any 24 research into who among registered voters would be most 25 likely to have a student identification card?</p>	<p style="text-align: center;">95</p> <p>1 included in SB 362? 2 MR. FREDERICK: I'll object to the 3 question on the ground that it seeks thoughts and mental 4 impressions and investigative efforts related to pending 5 legislation, and instruct you not to answer to the 6 extent that it would disclose the substance or -- the 7 substance or nature of the process you engaged in. 8 However, you may answer to the extent that you can do so 9 without revealing those matters. 10 A. I'm sorry. I'm having some brain fatigue. You 11 have to read the question again. 12 MS. MARANZANO: Can you read the question? 13 (The requested portion was read back by 14 the court reporter.) 15 A. No. 16 Q. (By Ms. Maranzano) Were you ever instructed not 17 to look at who among registered voters possessed one of 18 the forms of identification included in SB 362? 19 MR. FREDERICK: I object on the grounds 20 that that seeks communications between legislators, 21 staff, and state agencies. I instruct you not to answer 22 on the basis of privilege. 23 A. I'll assert privilege. 24 Q. (By Ms. Maranzano) If SB 362 had passed the 25 Texas Legislature, would it have been subject to the</p>
<p style="text-align: center;">94</p> <p>1 MR. FREDERICK: Object. The question 2 calls for your thoughts, mental impressions about 3 pending legislation. I instruct you not to reveal -- 4 not to reveal the substance of your efforts. However, 5 to the extent that you can answer whether you did or 6 not, you may answer. 7 A. Ask the question again. 8 MS. MARANZANO: Can you read back the 9 question. 10 (The requested portion read back by the 11 court reporter.) 12 A. No. 13 Q. (By Ms. Maranzano) Why not? 14 MR. FREDERICK: I'll object on the ground 15 that that calls for your subjective mental impressions 16 and thoughts about pending legislation and instruct you 17 not to answer on the basis of privilege. 18 A. I'll assert privilege. 19 Q. (By Ms. Maranzano) Did you have any 20 communications with anyone about the forms of 21 identification, what forms of identification to include 22 in SB 362? 23 A. No, ma'am. 24 Q. Did you do any analysis to determine who among 25 registered voters possessed the forms of identification</p>	<p style="text-align: center;">96</p> <p>1 requirements of Section 5? 2 A. Yes. 3 Q. Are you familiar with the concept of a Spanish 4 surname voter registration match? 5 A. No. 6 Q. Have you ever heard of a Spanish surname 7 analysis being conducted on a voter registration list? 8 A. No. 9 Q. Have you ever heard of a Spanish surname list 10 that's put together by the U.S. Census? 11 A. No. 12 Q. What's the purpose of SB 362? 13 MR. FREDERICK: I'll object to the extent 14 that the question calls for thoughts or mental 15 impressions about pending legislation, or to the extent 16 it seeks the substance of communications from 17 legislators, staff, state agencies, TLC, and 18 constituents. To the extent, however, that you can 19 identify the purpose of the bill without relying on 20 privileged matters, you may do so. 21 A. Senator Fraser's stated purpose on the record 22 about Senate Bill 362 is to prevent in-person voter 23 fraud. 24 Q. (By Ms. Maranzano) Any other purposes? 25 A. No, ma'am.</p>

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<p style="text-align: center;">97</p> <p>1 Q. Did he state on the record any evidence that</p> <p>2 in-person voter fraud exists?</p> <p>3 A. No.</p> <p>4 Q. Why was SB 362 a better way to deter in-person</p> <p>5 voter fraud than through the current system?</p> <p>6 MR. FREDERICK: Object to the extent this</p> <p>7 question seeks thoughts and mental impressions or</p> <p>8 communications that are privileged about pending</p> <p>9 legislation. To the extent that you can answer without</p> <p>10 relying on those matters, you can do so.</p> <p>11 A. I'll assert privilege.</p> <p>12 Q. (By Ms. Maranzano) Did anyone ask Senator</p> <p>13 Fraser to introduce SB 362?</p> <p>14 A. No.</p> <p>15 Q. And how do you know that?</p> <p>16 MR. FREDERICK: I object to the extent it</p> <p>17 calls for the substance of any privileged</p> <p>18 communications, and I instruct you not to answer on the</p> <p>19 basis of privilege.</p> <p>20 A. I'll assert privilege.</p> <p>21 MS. MARANZANO: Can I have this marked as</p> <p>22 Exhibit 31?</p> <p>23 (Exhibit 31 marked for identification.)</p> <p>24 Q. (By Ms. Maranzano) Ms. McCoy, I'm showing you</p> <p>25 what we are marking as Deposition Exhibit 30. Do you</p>	<p style="text-align: center;">99</p> <p>1 the other day. That's an original exhibit.</p> <p>2 MR. FREDERICK: Just so the record</p> <p>3 reflects that we have marked a nonmarked copy of the</p> <p>4 exhibit.</p> <p>5 MS. MARANZANO: Are we -- we're on the</p> <p>6 record?</p> <p>7 THE REPORTER: Yes.</p> <p>8 MS. MARANZANO: Okay.</p> <p>9 Q. (By Ms. Maranzano) Do you see that paragraph</p> <p>10 that I just read?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And can you tell me what the Senator meant by,</p> <p>13 "I want to ensure that illegal aliens, noncitizens, and</p> <p>14 people otherwise not qualified do not dilute the</p> <p>15 legitimate votes cast by citizens." What does that</p> <p>16 mean?</p> <p>17 MR. FREDERICK: I'll object to the</p> <p>18 question to the extent it seeks mental impressions of</p> <p>19 the thought process regarding pending legislation. But</p> <p>20 to the extent that -- and I'll also object to the extent</p> <p>21 it calls for speculation. To the extent that you think</p> <p>22 you can answer without relying on privileged matters,</p> <p>23 you may do so.</p> <p>24 A. I'll assert privilege.</p> <p>25 Q. (By Ms. Maranzano) Ms. McCoy, did you write</p>
<p style="text-align: center;">98</p> <p>1 recognize -- I'm sorry, 31. Do you recognize this</p> <p>2 document?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. What is this?</p> <p>5 A. This is a press release that Senator Fraser</p> <p>6 issued when he filed Senate Bill 362.</p> <p>7 Q. And can I direct your attention to the second</p> <p>8 to last paragraph there. Do you see that there is a</p> <p>9 quote that says -- it's a quote by Fraser, by Senator</p> <p>10 Fraser. It says, "In no way am I trying to prevent any</p> <p>11 legal citizen from voting. Instead, I want to ensure</p> <p>12 that illegal aliens, noncitizens, and people otherwise</p> <p>13 not qualified do not dilute the legitimate votes cast by</p> <p>14 citizens." Do you know see which paragraph I'm talking</p> <p>15 about?</p> <p>16 A. You have a different one.</p> <p>17 MR. FREDERICK: Okay. I'm sorry. Can I</p> <p>18 stop you real quick? I think I may have the wrong</p> <p>19 one. Oh, okay. That one is right, December 15th.</p> <p>20 Thanks. She wrote -- do you want to mark a different</p> <p>21 one for the record?</p> <p>22 (Brief discussion held off the record.)</p> <p>23 MR. RODRIGUEZ: That's 30, not 31.</p> <p>24 (Brief discussion held off the record.)</p> <p>25 MS. MARANZANO: We accidentally took this</p>	<p style="text-align: center;">100</p> <p>1 this press release?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. And are you the contact person for any</p> <p>4 inquiries from --</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. -- the press release?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And it's your position that you can't testify</p> <p>9 as to what he meant because it's privileged? Is that --</p> <p>10 MS. MARANZANO: I mean, Mr. Frederick,</p> <p>11 this is public document.</p> <p>12 MR. FREDERICK: Yeah. Yeah. Sure. And</p> <p>13 let me clarify. I think we need to be clear on my</p> <p>14 instruction. I'm objecting to the extent that it seeks</p> <p>15 thoughts or mental impressions of Senator Fraser. To</p> <p>16 the extent that Ms. McCoy sitting here can -- to the</p> <p>17 extent that she can tell you in her personal knowledge</p> <p>18 what she thinks this means sitting here today, then that</p> <p>19 would not be privileged. And communications with Fraser</p> <p>20 would be privileged. But I mean, the words are on the</p> <p>21 page, and to the extent that she can tell you what she</p> <p>22 thinks they mean today, I think that that's fine.</p> <p>23 MS. MARANZANO: And just to be clear, she</p> <p>24 did just testify that she wrote the words, so...</p> <p>25 MR. FREDERICK: Right.</p>

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<p style="text-align: center;">101</p> <p>1 Q. (By Ms. Maranzano) Okay. So to the extent that</p> <p>2 you --</p> <p>3 A. Would you like to ask the question again?</p> <p>4 Q. Yes. I'm interested in what -- the sentence</p> <p>5 that starts with, "Instead, I want to ensure that</p> <p>6 illegal aliens, noncitizens, and people otherwise not</p> <p>7 qualified, do not dilute the legitimate votes cast by</p> <p>8 citizens, said Fraser." What does that mean?</p> <p>9 A. I think it means that he wants to ensure that</p> <p>10 the person who shows up at the polls is the person who</p> <p>11 is supposed to be voting under that name.</p> <p>12 Q. Was a part of the purpose of SB 262 related to</p> <p>13 illegal aliens voting?</p> <p>14 MR. FREDERICK: Let me just interpose a</p> <p>15 objection to the extent that seeks thoughts, mental</p> <p>16 process, or privileged communications that would be</p> <p>17 privileged, and I would instruct you not to answer. But</p> <p>18 to the extent that you can identify the purpose or</p> <p>19 whether that's a purpose, you may answer.</p> <p>20 A. The purpose of Senate Bill 362 was to stop</p> <p>21 in-person voter fraud, and that would entail anybody not</p> <p>22 voting legally, including illegal aliens who are not</p> <p>23 allowed to vote.</p> <p>24 Q. (By Ms. Maranzano) So if a noncitizen votes,</p> <p>25 you define in-person voter fraud to include a noncitizen</p>	<p style="text-align: center;">103</p> <p>1 can explain your understanding of the terms at issue</p> <p>2 that would not be privileged, then you may answer.</p> <p>3 A. I don't know that I understand your question.</p> <p>4 Q. (By Ms. Maranzano) Okay. What I'm trying to do</p> <p>5 is, you have testified earlier today that the purpose of</p> <p>6 both SB 362 and HB 218 was to detect in-person voter</p> <p>7 impersonation. And I want to be clear for the record as</p> <p>8 to how you define that term, the term in-person voter</p> <p>9 impersonation.</p> <p>10 A. Someone who is not authorized to vote by our</p> <p>11 constitution who is voting in person. Someone who is</p> <p>12 cheating the system by voting under a different name.</p> <p>13 Someone who is cheating the system by voting more than</p> <p>14 once in an election.</p> <p>15 Q. So is part of the purpose of SB 362 to prevent</p> <p>16 noncitizens from voting?</p> <p>17 MR. FREDERICK: Same objection. But you</p> <p>18 can answer subject to my previous instruction.</p> <p>19 A. Okay. Can we back up? Because I just reread</p> <p>20 this press release.</p> <p>21 Q. (By Ms. Maranzano) Uh-huh.</p> <p>22 A. Senator Fraser filed two bills in 2008 -- 2008,</p> <p>23 Senate Bill 362 and Senate Bill 363?</p> <p>24 Q. Uh-huh.</p> <p>25 A. Senate Bill 363 was talking about -- more about</p>
<p style="text-align: center;">102</p> <p>1 voting as themselves? Am I understanding you correctly?</p> <p>2 A. Because they're committing fraud, yes, ma'am.</p> <p>3 Q. Okay. So when you said the purpose of SB 362</p> <p>4 was to deter in-person voter fraud, you also are</p> <p>5 including in that category deterring noncitizens from</p> <p>6 voting in elections; is that correct?</p> <p>7 MR. FREDERICK: I'll just object to the</p> <p>8 extent it mischaracterized the testimony. But to the</p> <p>9 extent we're talking about the purpose of the bill, you</p> <p>10 may answer the question.</p> <p>11 A. The purpose of the bill was to ensure that</p> <p>12 citizens, registered -- were voting -- were not</p> <p>13 committing fraud. There was no in-person voter fraud.</p> <p>14 So whatever that constitutes, this bill was trying to</p> <p>15 prevent.</p> <p>16 Q. (By Ms. Maranzano) Okay. So what I'm asking</p> <p>17 you now is: What do you believe that that constitutes?</p> <p>18 As somebody who was the chief of staff for the author of</p> <p>19 the bill, what do you think that constitutes?</p> <p>20 MR. FREDERICK: I will object, based on</p> <p>21 privilege, the extent that this seeks a subjective</p> <p>22 motivation, a subjective thought or a mental impression</p> <p>23 somehow incorporated in the text of the bill. And I</p> <p>24 would instruct you not to answer on the basis of</p> <p>25 privilege. To the extent that sitting here today, you</p>	<p style="text-align: center;">104</p> <p>1 the illegal immigrant issue. Senate Bill 362 was about</p> <p>2 in-person voter fraud. This quote probably relates more</p> <p>3 to Senate Bill 363 than it does to Senate Bill 362. So,</p> <p>4 I mean, we have to read the whole press release in</p> <p>5 context.</p> <p>6 Q. Uh-huh.</p> <p>7 A. I mean, but in-person voter fraud is someone</p> <p>8 showing up who's not supposed to be there, who is not a</p> <p>9 citizen of our country, who has someone else's ID, who</p> <p>10 has falsified voter records and is voting fraudulently,</p> <p>11 and that's what Senate Bill 362 was trying to do.</p> <p>12 Q. Okay. So how does Senate Bill 362 deter</p> <p>13 noncitizens from voting?</p> <p>14 MR. FREDERICK: I object to the extent it</p> <p>15 calls for speculation. You may answer if you can.</p> <p>16 A. By requiring someone to show ID, if they're not</p> <p>17 a legal citizen, they wouldn't have that ID,</p> <p>18 necessarily, and then they wouldn't be able to vote.</p> <p>19 Q. (By Ms. Maranzano) Do you know how many forms</p> <p>20 of ID listed in SB 362 a noncitizen is able to obtain?</p> <p>21 A. I do not.</p> <p>22 Q. Did you look into that when you were working on</p> <p>23 SB 362?</p> <p>24 MR. FREDERICK: I object to the extent it</p> <p>25 calls for mental impressions, thought process,</p>

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<p style="text-align: center;">105</p> <p>1 privileged communications. But subject to that</p> <p>2 instruction, if you can answer without revealing that,</p> <p>3 you may answer.</p> <p>4 A. No.</p> <p>5 Q. (By Ms. Maranzano) No, you didn't look into it?</p> <p>6 A. I did not.</p> <p>7 Q. Do you think that would be an important issue</p> <p>8 to look into, if part of the goal of the bill is to</p> <p>9 prevent noncitizens from voting?</p> <p>10 A. The goal of the bill was to prevent in-person</p> <p>11 voter fraud.</p> <p>12 Q. Okay. I thought you testified earlier that</p> <p>13 that included anyone who was not legally permitted to</p> <p>14 vote. Is that not correct?</p> <p>15 A. The goal of Senate Bill 362 was to prevent</p> <p>16 in-person voter fraud. Whether it was by legal citizens</p> <p>17 or illegal citizens, we were trying to create a tool to</p> <p>18 prevent in-person voter fraud.</p> <p>19 Q. Okay. And to be clear, you did not look into</p> <p>20 whether noncitizens could obtain the forms of</p> <p>21 identification required by SB 362?</p> <p>22 A. I did not.</p> <p>23 MR. FREDERICK: If we can take a break</p> <p>24 soon.</p> <p>25 MS. MARANZANO: Do you want to go like</p>	<p style="text-align: center;">107</p> <p>1 communications, you may do so.</p> <p>2 A. I'll assert privilege.</p> <p>3 Q. (By Ms. Maranzano) Ms. McCoy, is it your</p> <p>4 position that promises that the Senator makes about</p> <p>5 legislation are covered by the privilege, the</p> <p>6 legislative privilege?</p> <p>7 MR. FREDERICK: Yes, to the extent -- I</p> <p>8 mean, I guess promises, I'm not entirely clear on what a</p> <p>9 promise would entail, but I think to the extent that it</p> <p>10 would include a discussion with another legislator or</p> <p>11 discussions between legislative staff members about</p> <p>12 pending legislation. I mean, I think promise could be</p> <p>13 construed to include ordinary legislative discussions</p> <p>14 and, you know, policy discussions and compromises. I</p> <p>15 think that kind of thing is an integral part of the</p> <p>16 legislative process in determining votes to get</p> <p>17 legislation passed.</p> <p>18 MS. MARANZANO: Is it also your position</p> <p>19 that promises to constituents or groups would be covered</p> <p>20 by the privilege?</p> <p>21 MR. FREDERICK: It's my understanding that</p> <p>22 a promise to somebody outside the Legislature, I think,</p> <p>23 would not fall under the privilege.</p> <p>24 MS. MARANZANO: That's my understanding,</p> <p>25 too.</p>
<p style="text-align: center;">106</p> <p>1 another 15 minutes and break for lunch? That's fine.</p> <p>2 MR. FREDERICK: Sure.</p> <p>3 MR. DUNN: But then we'll have to do the</p> <p>4 hearing.</p> <p>5 MR. ROSENBERG: Yeah, that would fit in</p> <p>6 with the hearing.</p> <p>7 MS. MARANZANO: Okay.</p> <p>8 Q. (By Ms. Maranzano) Did the Senator consider any</p> <p>9 alternative legislative measures that would have</p> <p>10 accomplished the goal of deterring in-person voter</p> <p>11 impersonation.</p> <p>12 MR. FREDERICK: Object on the ground that</p> <p>13 it seeks thoughts, mental impressions, and privileged</p> <p>14 communications, and I instruct you not to answer the</p> <p>15 question based on privilege.</p> <p>16 A. I'll assert privilege.</p> <p>17 Q. (By Ms. Maranzano) Did the Senator make any</p> <p>18 promises to anyone concerning alternative legislative</p> <p>19 measures that would have accomplished the goal of</p> <p>20 deterring in-person voter impersonation?</p> <p>21 MR. FREDERICK: I'll object to the extent</p> <p>22 that calls for thoughts, mental impressions, or</p> <p>23 communications with other legislators or legislative</p> <p>24 staff members, other privileged communications. To the</p> <p>25 extent you can answer without revealing privileged</p>	<p style="text-align: center;">108</p> <p>1 MR. FREDERICK: Yeah. Yeah. And I think</p> <p>2 to the extent it's not an -- to the extent it's a</p> <p>3 nonconfidential or an external communication, I think</p> <p>4 that's not what I intend to object to.</p> <p>5 MS. MARANZANO: Okay.</p> <p>6 Q. (By Ms. Maranzano) Ms. McCoy let me rephrase</p> <p>7 that question. Did the Senator make any promises to</p> <p>8 constituents or outside groups related to SB 362?</p> <p>9 A. In what way?</p> <p>10 Q. Did the Senator make any promises to bring a</p> <p>11 bill to the Senate Floor that would require photo</p> <p>12 identification in 2009?</p> <p>13 A. The Senator committed, after the legislation</p> <p>14 failed in 2007, to constituents that he would try again.</p> <p>15 Q. Which constituents did he commit to?</p> <p>16 A. Skipper Wallace.</p> <p>17 Q. Can you tell me who Skipper Wallace is?</p> <p>18 A. He's a constituent from Lampasas.</p> <p>19 Q. Why is he so interested in photo identification</p> <p>20 bills?</p> <p>21 MR. FREDERICK: I'll object to the extent</p> <p>22 that calls for privileged communications between Senator</p> <p>23 Fraser, Ms. McCoy, and privileged communications between</p> <p>24 either and Mr. Wallace, and as well as to the extent it</p> <p>25 calls for thought process, mental impressions. If you</p>

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<p style="text-align: center;">109</p> <p>1 can answer without revealing thoughts or privileged</p> <p>2 communications, you can do so. Otherwise, I instruct</p> <p>3 you not to answer on the basis of privilege.</p> <p>4 A. I mean, Skipper has been a long-time election</p> <p>5 worker and judge, and I think he just advocates for</p> <p>6 election law change.</p> <p>7 Q. (By Ms. Maranzano) He's an election worker and</p> <p>8 judge. What is his profession, if you know?</p> <p>9 A. He's a businessman.</p> <p>10 Q. So he is a volunteer election judge, and what</p> <p>11 was the first thing you said?</p> <p>12 A. Election worker, election judge.</p> <p>13 Q. Does he have any role in the government</p> <p>14 structure of the county?</p> <p>15 A. Skipper, I think, used to be city manager in</p> <p>16 Lampasas, I think.</p> <p>17 Q. Does he have any role with a political party?</p> <p>18 Any political party?</p> <p>19 A. Yes.</p> <p>20 Q. Which one?</p> <p>21 A. Republican.</p> <p>22 Q. And what's his role?</p> <p>23 A. He's Chair of the Lampasas Republican Party.</p> <p>24 Q. Ms. McCoy, you testified earlier that there was</p> <p>25 no partisan purpose to SB 362. So now that you've</p>	<p style="text-align: center;">111</p> <p>1 communications between Senator Fraser and</p> <p>2 constituents. To the extent you can answer without</p> <p>3 revealing the substance of those conversations, you may</p> <p>4 do so.</p> <p>5 A. The Senator has met with constituents about</p> <p>6 voter ID.</p> <p>7 Q. (By Ms. Maranzano) How many times?</p> <p>8 A. The Senator mentions voter ID when he speaks</p> <p>9 and when he gets invited to go speak to different</p> <p>10 chambers and groups. Pretty much every time he speaks</p> <p>11 to a group like that, he'll mention it. And in office,</p> <p>12 half dozen.</p> <p>13 Q. Would you say that voter ID was one of the</p> <p>14 Senator's key legislative accomplishments?</p> <p>15 MR. FREDERICK: I'll object to the extent</p> <p>16 to calls for mental impressions or thoughts. However,</p> <p>17 to the extent you can answer, based on -- to the extent</p> <p>18 you can answer without relying on privileged</p> <p>19 information, you can do so.</p> <p>20 A. Yes.</p> <p>21 Q. (By Ms. Maranzano) Who besides Senator Fraser</p> <p>22 were the main proponents of SB 362?</p> <p>23 A. Other members?</p> <p>24 Q. Well, presumably. Well, why don't we start</p> <p>25 with: Were there any members who voted for the bill who</p>
<p style="text-align: center;">110</p> <p>1 testified that the Senator made a promise to a person</p> <p>2 who was affiliated with a political party, the Chair of</p> <p>3 a political party, do you wish to change your testimony</p> <p>4 from earlier today?</p> <p>5 A. No, ma'am.</p> <p>6 Q. Did your office have any communications about</p> <p>7 the purpose of SB 362?</p> <p>8 MR. FREDERICK: Object as vague, also</p> <p>9 object on grounds of privilege to the extent it calls</p> <p>10 for the substance of confidential communications, and</p> <p>11 instruct you not to answer. To the extent you can</p> <p>12 answer without revealing confidential communications,</p> <p>13 you may.</p> <p>14 A. I'm going to assert privilege.</p> <p>15 Q. (By Ms. Maranzano) Did your office have any</p> <p>16 communications in response to a -- did you -- did your</p> <p>17 office ever get a Texas public records request regarding</p> <p>18 SB 362?</p> <p>19 A. We have received public information requests</p> <p>20 about voter ID. I do not recall if they were in post</p> <p>21 2009 session or post 2011. Probably both.</p> <p>22 Q. Has Senator Fraser had any meetings with</p> <p>23 constituents where the purpose of 362 was discussed?</p> <p>24 MR. FREDERICK: I'll object to the extent</p> <p>25 it calls for the content of communications, privileged</p>	<p style="text-align: center;">112</p> <p>1 were strong proponents of it?</p> <p>2 MR. FREDERICK: I'll just interpose, I</p> <p>3 don't think that this question is asking for the</p> <p>4 substance of communications, so I would admonish you not</p> <p>5 to reveal the substance of any privileged communications</p> <p>6 in answering, but I think that you can do that.</p> <p>7 A. I mean, I think that all the members that</p> <p>8 signed on as co-authors would consider themselves strong</p> <p>9 proponents of the bill.</p> <p>10 Q. (By Ms. Maranzano) Were there others in the</p> <p>11 Texas government who were strong proponents of SB 362?</p> <p>12 MR. FREDERICK: Same instruction.</p> <p>13 A. I don't think so. I don't know.</p> <p>14 Q. (By Ms. Maranzano) Was 362 a priority for the</p> <p>15 Governor?</p> <p>16 MR. FREDERICK: I'll object on the same</p> <p>17 grounds. To the extent it seeks thoughts, mental</p> <p>18 impressions of the Governor or communications between</p> <p>19 Senator Fraser's office and the Governor, I will</p> <p>20 instruct you not to answer. I mean, if you know.</p> <p>21 A. I don't know the Governor's priorities from</p> <p>22 2009.</p> <p>23 Q. (By Ms. Maranzano) Was SB 362 a priority for</p> <p>24 the Lieutenant Governor?</p> <p>25 MR. FREDERICK: The same instruction. To</p>

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<p style="text-align: center;">113</p> <p>1 the extent it seeks thoughts or mental impressions of</p> <p>2 the Lieutenant Governor or confidential communications</p> <p>3 between Senator Fraser's office and the Lieutenant</p> <p>4 Governor's Office, I would instruct you not to answer.</p> <p>5 If you're able to answer, you may do so.</p> <p>6 A. I don't know -- I don't know the Lieutenant</p> <p>7 Governor's priorities from 2009.</p> <p>8 Q. (By Ms. Maranzano) Was SB 36 a priority for</p> <p>9 anyone outside of the Texas government?</p> <p>10 MR. FREDERICK: I'll object as vague, but</p> <p>11 you can answer if you know.</p> <p>12 A. I don't. I don't know.</p> <p>13 Q. (By Ms. Maranzano) How often did you say that</p> <p>14 you talked to Lieutenant Governor's Office during the</p> <p>15 consideration of SB 362?</p> <p>16 A. I probably talked to them every day while we</p> <p>17 were scheduling the bill and during the hearing.</p> <p>18 Q. And you have no idea whether it was priority</p> <p>19 for their office?</p> <p>20 MR. FREDERICK: Object, argumentative.</p> <p>21 Q. (By Ms. Maranzano) You can answer.</p> <p>22 A. That process was about six days long, so to</p> <p>23 talk to them for six days. But again, I don't speak for</p> <p>24 the Lieutenant Governor, so I don't know his priorities.</p> <p>25 Q. Were there any groups that represented minority</p>	<p style="text-align: center;">115</p> <p>1 it seeks the substance of any privileged communication</p> <p>2 between a constituent and Senator Fraser's office, but</p> <p>3 to the extent it doesn't require you to reveal the</p> <p>4 substance, you may answer the question.</p> <p>5 A. I don't recall.</p> <p>6 Q. (By Ms. Maranzano) Do you recall that there was</p> <p>7 opposition to SB 362?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. What was the basis of that opposition?</p> <p>10 MR. FREDERICK: I'll object to the extent</p> <p>11 it calls for speculation. Also object to the extent it</p> <p>12 seeks the substance of any privileged communications</p> <p>13 between other legislators and staff or constituents and</p> <p>14 Senator Fraser and Ms. McCoy. To the extent that you</p> <p>15 know independent of privileged sources or you don't have</p> <p>16 to reveal any, you may answer.</p> <p>17 A. I think if you look at the record, that the</p> <p>18 people that testified against Senate Bill 362 believed</p> <p>19 that it would disenfranchise voters.</p> <p>20 Q. (By Ms. Maranzano) What do you think about that</p> <p>21 testimony?</p> <p>22 MR. FREDERICK: I'll object to the extent</p> <p>23 it calls for thoughts or mental impressions about</p> <p>24 pending legislation. I also object to relevance.</p> <p>25 A. I'll assert privilege.</p>
<p style="text-align: center;">114</p> <p>1 voters who supported SB 362?</p> <p>2 MR. FREDERICK: I'll just object to the</p> <p>3 extent this calls for the substance of confidential</p> <p>4 communications between any constituents and Senator</p> <p>5 Fraser's office, I would instruct you not to answer.</p> <p>6 But to the extent that you can answer without revealing</p> <p>7 the substance of any conversation, you can do so.</p> <p>8 A. I don't know.</p> <p>9 Q. (By Ms. Maranzano) Ms. McCoy, who would know</p> <p>10 the Lieutenant Governor's priorities?</p> <p>11 MR. FREDERICK: Object as vague and calls</p> <p>12 for speculation. You can answer if you know.</p> <p>13 A. The Lieutenant Governor and his staff.</p> <p>14 Q. (By Ms. Maranzano) Who on his staff?</p> <p>15 MR. FREDERICK: Same objection.</p> <p>16 A. His chief of staff, Blaine Brunson.</p> <p>17 Q. (By Ms. Maranzano) Who were the main opponents</p> <p>18 to SB 362?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you recall having communications with</p> <p>21 constituents who opposed SB 362?</p> <p>22 A. No.</p> <p>23 Q. Do you recall having -- do you recall having</p> <p>24 communications with outside groups that opposed SB 362?</p> <p>25 MR. FREDERICK: I'll object to the extent</p>	<p style="text-align: center;">116</p> <p>1 Can I do that?</p> <p>2 MR. FREDERICK: Yeah.</p> <p>3 Q. (By Ms. Maranzano) Did the Senator take any</p> <p>4 steps with regard to SB 362 to address any of these</p> <p>5 concerns that were raised by opponents to SB 362?</p> <p>6 MR. FREDERICK: Objection, vague.</p> <p>7 Objection, seeks thoughts and mental impressions of the</p> <p>8 Senator. It also seeks the substance of confidential</p> <p>9 communications and privileged communications with the</p> <p>10 Senator. To the extent that you can answer without</p> <p>11 revealing the substance of confidential communications</p> <p>12 or the Senator's thought process or the thought</p> <p>13 processes of you or any other legislator, you may do so.</p> <p>14 A. I don't think we amended the bill, so the</p> <p>15 answer would be no.</p> <p>16 Q. (By Ms. Maranzano) Just to be clear, you don't</p> <p>17 think you amended the bill at all throughout the entire</p> <p>18 Senate process?</p> <p>19 A. I don't think we did. Maybe on the margins,</p> <p>20 but -- so, we did not take any action to make changes</p> <p>21 either direction.</p> <p>22 Q. Is there a reason you didn't take any action to</p> <p>23 respond to the concern of opponents?</p> <p>24 MR. FREDERICK: Objection, it seeks</p> <p>25 thoughts and mental impressions. I instruct you not to</p>

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<p style="text-align: center;">117</p> <p>1 answer on the basis of privilege.</p> <p>2 A. I'll assert privilege.</p> <p>3 Q. (By Ms. Maranzano) Did anybody raise any</p> <p>4 concerns that SB 362 would disenfranchise minority</p> <p>5 voters?</p> <p>6 MR. FREDERICK: I'll object to the extent</p> <p>7 it calls for privileged communications between</p> <p>8 constituents, legislators, staff, and you or Senator</p> <p>9 Fraser. To the extent you can answer without relying on</p> <p>10 privileged communications, you may do so.</p> <p>11 A. And on the record, during the debate, several</p> <p>12 members testified that way, and then we had witnesses</p> <p>13 that testified in the same manner.</p> <p>14 Q. (By Ms. Maranzano) And do you recall what the</p> <p>15 basis of their testimony was?</p> <p>16 A. No, ma'am.</p> <p>17 Q. Did you take any steps to determine whether</p> <p>18 SB 362 would disenfranchise minority voters?</p> <p>19 MR. FREDERICK: Object to the extent it</p> <p>20 seeks thought process -- thought processes and mental</p> <p>21 impressions and confidential communications with</p> <p>22 legislators and legislative staff. I would instruct you</p> <p>23 not to answer that question on the basis of privilege.</p> <p>24 A. I'll assert privilege.</p> <p>25 MS. MARANZANO: I think that I'm a point</p>	<p style="text-align: center;">119</p> <p>1 navigate the legislative process for the Senator in</p> <p>2 terms of the behind-the-scenes staff work that takes</p> <p>3 place.</p> <p>4 Q. And can you describe that to me?</p> <p>5 A. Filing the bill. Filing the bill and</p> <p>6 requesting hearings, prepping talking points.</p> <p>7 Q. Did you have any role in determining how</p> <p>8 different senators would vote on SB 362?</p> <p>9 A. No.</p> <p>10 Q. Did Senator Fraser have any idea of how many</p> <p>11 senators would support SB 362 when he introduced it?</p> <p>12 MR. FREDERICK: Object. The question</p> <p>13 calls for thought process and mental impressions of</p> <p>14 Senator Fraser. It may also call for communications</p> <p>15 with legislators and staff that are privileged. I would</p> <p>16 instruct you not to answer on the basis of privilege.</p> <p>17 A. I'll assert privilege.</p> <p>18 (Exhibit 32 marked for identification.)</p> <p>19 Q. (By Ms. Maranzano) Okay. Can you take a look</p> <p>20 at what we've marked as Deposition Exhibit 32? In</p> <p>21 particular, can you look at Rule 5.11, which is on Page</p> <p>22 24. Do you see Provision D under 5.11?</p> <p>23 A. Yes.</p> <p>24 Q. When was that provision added to the rules?</p> <p>25 A. January 14th, 2009.</p>
<p style="text-align: center;">118</p> <p>1 where it might make sense to stop for lunch. And maybe</p> <p>2 we can start back up after the call to the court? Does</p> <p>3 that make sense?</p> <p>4 MR. SWEETEN: That's fine.</p> <p>5 With respect to letting Janice go, I'm</p> <p>6 going to let her go for a while. Let's probably have</p> <p>7 you come back at two o'clock. I mean, I don't think she</p> <p>8 needs to be here before 2:00 for any reason.</p> <p>9 MS. MARANZANO: Yeah, I think that's</p> <p>10 right.</p> <p>11 MR. DUNN: That's fine. The only thing</p> <p>12 I'll add is that I invoked the rule, and under the</p> <p>13 Federal Rules of Procedure you're not to talk to anybody</p> <p>14 about your testimony other than your lawyers.</p> <p>15 THE WITNESS: That's fine.</p> <p>16 (Lunch recess from 12:46 p.m. to</p> <p>17 2:15 p.m.)</p> <p>18 MS. MARANZANO: Let's go back on the</p> <p>19 record.</p> <p>20 Q. (By Ms. Maranzano) Before the break, we were</p> <p>21 talking about SB 362, and I'd like to continue talking</p> <p>22 about SB 362.</p> <p>23 Ms. McCoy, what was your role in trying to</p> <p>24 get SB 362 passed?</p> <p>25 A. My role in trying to get 362 passed was to</p>	<p style="text-align: center;">120</p> <p>1 Q. And how was -- was there a resolution to</p> <p>2 specifically add Subsection D to Rule 5.11?</p> <p>3 A. Yes.</p> <p>4 Q. Who introduced that resolution?</p> <p>5 A. Senator Williams.</p> <p>6 Q. Did Senator Fraser ask Senator Williams to</p> <p>7 exempt voter ID requirements from the two-thirds Rule?</p> <p>8 MR. FREDERICK: I object on the grounds</p> <p>9 that it seeks confidential communications related to</p> <p>10 pending legislation, and I'm going to instruct you not</p> <p>11 to answer on the basis of privilege.</p> <p>12 A. I'll assert privilege.</p> <p>13 Q. (By Ms. Maranzano) How was the resolution</p> <p>14 brought up in the Senate to add Subsection D to 5.11?</p> <p>15 A. I don't remember.</p> <p>16 Q. During the time that you have worked for</p> <p>17 Senator Fraser, have you ever seen another category of</p> <p>18 legislation exempted from the two-thirds rule?</p> <p>19 MR. FREDERICK: I'll object just on -- to</p> <p>20 the extent that it mischaracterizes the testimony in the</p> <p>21 record, but you can answer.</p> <p>22 A. I don't recall the Committee of the Whole</p> <p>23 meeting, except for 2009 and 2011, since I've worked for</p> <p>24 Senator Fraser.</p> <p>25 Q. (By Ms. Maranzano) So am I understanding you</p>

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<p style="text-align: center;">121</p> <p>1 correctly that there has not been, to the best of your 2 recollection, another category of legislation that's 3 been written into the rules as exempted from the 4 two-thirds vote requirement under Rule 5.11? 5 MR. FREDERICK: The same objection, but 6 you can answer. 7 A. Can you repeat the question? 8 Q. (By Ms. Maranzano) I just want to make sure I 9 understood the answer that you gave, because you 10 mentioned the Committee of the Whole. But am I 11 understanding you correctly that it's your recollection, 12 as you sit here, that during the time you worked for 13 Senator Fraser, there has not been another category of 14 legislation carved out of Rule 5.11 as voter 15 identification requirements are carved out in 16 Subsection D in the 2009 rules? 17 A. Yes. 18 Q. Okay. What was the purpose of carving out the 19 voter ID identification requirement from the two-thirds 20 rule? 21 A. I don't know. 22 Q. Did the Senator have any concerns about 23 exempting SB 362 from the requirement that legislation 24 get two-thirds support in the Senate? 25 MR. FREDERICK: Object on the grounds that</p>	<p style="text-align: center;">123</p> <p>1 MR. FREDERICK: I object to the question 2 to the extent it calls for the substance of confidential 3 communications between Ms. McCoy and Senator Williams 4 so it's subject to legislative privilege. I'm going to 5 instruct you not to answer on that basis. 6 Q. (By Ms. Maranzano) Are you following your 7 counsel's instruction not to answer that question? 8 A. I never spoke to Senator Williams about this 9 resolution. 10 Q. Did you speak to anybody at Senator Williams's 11 office about this resolution? 12 A. No. 13 Q. Did you speak to anybody in the Lieutenant 14 Governor's Office about the resolution that led to the 15 suspension of the two-thirds rule? 16 A. No. 17 Q. Did you speak to anybody in the Governor's 18 Office? 19 A. No. 20 Q. What was the reaction from senators on the -- 21 well, let me ask you this first: Are you familiar with 22 the testimony that occurred when Senator Williams 23 introduced the resolution to suspend the two-thirds 24 rule? 25 A. No.</p>
<p style="text-align: center;">122</p> <p>1 it seeks the thought process and mental impressions of 2 Senator Fraser about pending legislation, and I instruct 3 you not to answer on the basis of privilege. 4 A. I'm going to assert privilege. 5 Q. (By Ms. Maranzano) Did the Senator have any 6 concerns that by exempting legislation from the 7 two-thirds rule requirement, it would appear to be a 8 very partisan-supported piece of legislation? 9 MR. FREDERICK: I object on the grounds 10 that it seeks the mental impressions and thought 11 processes of Senator Fraser on pending legislation. I 12 instruct you not to answer on grounds of privilege. 13 A. I'll assert privilege. 14 Q. (By Ms. Maranzano) If SB 362 had not been 15 exempt from the two-thirds rule requirement, would it 16 have passed the Senate? 17 MR. FREDERICK: Object to the extent it 18 calls for speculation. 19 A. I don't know. 20 Q. (By Ms. Maranzano) Well, SB 362 was voted on, 21 did two-thirds of the members support it? 22 A. No. 23 Q. Did you have any communications with Senator 24 Williams about the resolution that led to Subsection D 25 of Rule 5.11 in the 2009 rules?</p>	<p style="text-align: center;">124</p> <p>1 Q. Can you also take a look at Rule 16.07? It's 2 on Page 106 and 107. 3 A. Which rule did you want me to look at? 4 Q. 16 -- hold on. 5 A. 07? 6 Q. 16.07. 7 A. Okay. 8 Q. Actually, you know what; let's do 16.06 and 07, 9 which relate to matters regarding -- 16.06 is matters 10 requiring a vote of two-thirds of the members present, 11 and 16.07 is Matters of Requiring Vote of Majority 12 Members of the Senate. Were these rules also impacted 13 by Senator Williams's resolution? 14 A. I don't know. 15 Q. Can you look at Section 7, Subsection 7 of Rule 16 16.07, matters -- and 16.07, again, is Matters Requiring 17 Vote of Majority of Members of the Senate. And 18 Subsection 7 says, "Set voter identification requirement 19 bills for special order." Does that refresh your 20 recollection as to whether that was something that was 21 impacted by Senator Williams's resolution? 22 A. I never read Senator Williams's resolution, so 23 I would assume yes, it was in there. 24 Q. So these changes in the rules directly impacted 25 SB 362, did they not?</p>

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<p style="text-align: center;">125</p> <p>1 A. Yes.</p> <p>2 Q. So you never read Senator Williams's</p> <p>3 resolution, but are you familiar with the impact that</p> <p>4 his resolution on the rules?</p> <p>5 A. Yes.</p> <p>6 Q. Did Senator Fraser have any concerns about</p> <p>7 suspending the two-thirds rule for SB 362?</p> <p>8 MR. FREDERICK: I object on the grounds</p> <p>9 that it seeks the mental impressions and thought</p> <p>10 processes of Senator Fraser as well as privileged</p> <p>11 communications of the staff, and I instruct you not to</p> <p>12 answer on the basis of privilege.</p> <p>13 A. I'll assert privilege.</p> <p>14 Q. (By Ms. Maranzano) Were there any other changes</p> <p>15 in the rules in 2009 from previous Senate rules that --</p> <p>16 A. I don't recall. I'm sorry. I thought you were</p> <p>17 done. I'm sorry.</p> <p>18 Q. No, it was just a pause.</p> <p>19 That were related only to voter</p> <p>20 identification requirements?</p> <p>21 A. I don't recall.</p> <p>22 Q. Was there any consideration of changing any</p> <p>23 other Senate rules in 2009 to ensure that SB 362 would</p> <p>24 get passed in the Senate?</p> <p>25 MR. FREDERICK: I object to the extent the</p>	<p style="text-align: center;">127</p> <p>1 Q. What kind of documentation did you have with</p> <p>2 you?</p> <p>3 MR. FREDERICK: I object on the ground</p> <p>4 that it seeks thought process and mental impressions</p> <p>5 that may reflect confidential communications. I would</p> <p>6 instruct you not to answer on the basis of privilege.</p> <p>7 A. I will answer, because I will tell you the same</p> <p>8 things that we've talked about earlier: The poll data,</p> <p>9 the studies, the Carter-Baker Commission report. Just</p> <p>10 those two.</p> <p>11 MS. MARANZANO: I'm going to ask, if it's</p> <p>12 possible, Mr. Frederick, can you shorten your objections</p> <p>13 just so that we can --</p> <p>14 MR. FREDERICK: Yeah.</p> <p>15 MS. MARANZANO: I mean, you know, since</p> <p>16 it's the same objection, that will maybe save us some</p> <p>17 time.</p> <p>18 MR. FREDERICK: Absolutely.</p> <p>19 MS. MARANZANO: Thank you.</p> <p>20 MR. FREDERICK: If y'all are willing to --</p> <p>21 you know, to stipulate that when I make a shorter</p> <p>22 objection, it covers all the matters, I am happy to</p> <p>23 shorten it.</p> <p>24 MS. MARANZANO: Great. Thank you.</p> <p>25 MR. FREDERICK: Can I propose "Objection,</p>
<p style="text-align: center;">126</p> <p>1 question calls for thought process, mental impressions</p> <p>2 of legislators and for confidential communications,</p> <p>3 privileged communications among legislators and</p> <p>4 staff. I would instruct you not to answer on the basis</p> <p>5 of privilege, except to the extent there is something</p> <p>6 nonprivileged you can point to answer.</p> <p>7 A. I don't know.</p> <p>8 Q. (By Ms. Maranzano) Was SB 362 considered by any</p> <p>9 Senate committees?</p> <p>10 A. Senate committee on the whole.</p> <p>11 Q. Is that the only one?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Is it unusual for a bill to go straight to</p> <p>14 Senate Committee of the Whole?</p> <p>15 A. Yes.</p> <p>16 Q. Have you seen that happen with other</p> <p>17 legislation during the time you have worked for Senator</p> <p>18 Fraser?</p> <p>19 A. I don't recall it happening since I've worked</p> <p>20 for Senator Fraser.</p> <p>21 Q. What was your role during the Floor</p> <p>22 consideration of SB 362?</p> <p>23 A. I sat with Senator Fraser as he laid out the</p> <p>24 bill, and when he asked me to produce documentation, I</p> <p>25 would give it to him.</p>	<p style="text-align: center;">128</p> <p>1 legislative privilege?"</p> <p>2 MS. MARANZANO: That's sounds --</p> <p>3 MR. FREDERICK: Is that good enough?</p> <p>4 MS. MARANZANO: That's great. And you</p> <p>5 will understand what he means overall.</p> <p>6 THE WITNESS: And then I may not forget</p> <p>7 your question.</p> <p>8 MR. FREDERICK: Yeah. Thanks.</p> <p>9 MS. MARANZANO: Okay. Terrific.</p> <p>10 Q. (By Ms. Maranzano) During the Floor debate on</p> <p>11 SB 362, did anyone raise concerns about the impact that</p> <p>12 the bill might have on minority voters?</p> <p>13 A. Yes.</p> <p>14 Q. What concerns were those?</p> <p>15 A. I can't speak to specific concerns.</p> <p>16 Q. Who raised those concerns?</p> <p>17 A. Democrats and the senators.</p> <p>18 Q. Were they minority senators?</p> <p>19 A. Some of them were.</p> <p>20 Q. Do you know if they were senators who</p> <p>21 represented minority voters?</p> <p>22 A. Yes.</p> <p>23 Q. What was the Senator's response to these</p> <p>24 concerns?</p> <p>25 A. His response was that he disagreed.</p>

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<p style="text-align: center;">129</p> <p>1 Q. What was that disagreement based upon?</p> <p>2 MR. FREDERICK: Object on legislative</p> <p>3 privilege, but matters in the public record you may</p> <p>4 address.</p> <p>5 A. He referenced election data in both Georgia and</p> <p>6 Indiana that showed that their voter ID laws did not</p> <p>7 impact minority voters on the record.</p> <p>8 Q. (By Ms. Maranzano) What was that election data?</p> <p>9 A. Data from Indiana and Georgia's elections that</p> <p>10 were held after they voted -- after they had a voter ID</p> <p>11 law, that showed that the turnout increased.</p> <p>12 Q. So the data you referenced was about turnout?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Was it solely about turnout?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And was it about turnout of minority voters in</p> <p>17 particular?</p> <p>18 A. All voters.</p> <p>19 Q. All voters?</p> <p>20 A. By I think the data he showed did have</p> <p>21 minority -- I think the data he referenced in his</p> <p>22 testimony did show that minority voters increased as</p> <p>23 well.</p> <p>24 Q. And what years were those studies run?</p> <p>25 A. I don't remember.</p>	<p style="text-align: center;">131</p> <p>1 privilege. Instruct you not to answer.</p> <p>2 A. Assert privilege.</p> <p>3 Q. (By Ms. Maranzano) Did the Senator do any</p> <p>4 research to determine whether there were any high</p> <p>5 profile elections during those years?</p> <p>6 MR. FREDERICK: Objection, legislative</p> <p>7 privilege. Instruct you not to answer.</p> <p>8 A. I assert privilege.</p> <p>9 Q. (By Ms. Maranzano) Did the Senator do any</p> <p>10 additional research about turnout and Georgia and</p> <p>11 Indiana?</p> <p>12 MR. FREDERICK: Objection, legislative</p> <p>13 privilege. Instruct you not to answer.</p> <p>14 A. Assert privilege.</p> <p>15 Q. (By Ms. Maranzano) Did SB 362 change at all in</p> <p>16 response to the concerns that were raised on the Senate</p> <p>17 Floor?</p> <p>18 MR. FREDERICK: Objection, legislative</p> <p>19 privilege, to the extent it calls for actual thought</p> <p>20 process, but I think to the extent there's anything on</p> <p>21 the record, you're free to testify about that.</p> <p>22 A. So I went and looked over at the break, while</p> <p>23 y'all were doing your conference, about the process,</p> <p>24 because I don't recall, didn't recall, and Senate Bill</p> <p>25 362, there was a committee substitute in committee. Bu</p>
<p style="text-align: center;">130</p> <p>1 Q. Do you know if he looked into whether other</p> <p>2 issues might have had any impact on that turnout?</p> <p>3 MR. FREDERICK: Objection, legislative</p> <p>4 privilege. To the extent there's material on the</p> <p>5 record, you may answer.</p> <p>6 A. I'll assert privilege.</p> <p>7 Q. (By Ms. Maranzano) Did any of those studies</p> <p>8 record any information about voter registration rates in</p> <p>9 Indiana and Georgia?</p> <p>10 A. The data -- I'm sorry. The data that I</p> <p>11 mentioned was not a study. It's actual voter turnout</p> <p>12 from those states' Secretaries of State. So I want to</p> <p>13 be real clear that they're not studies. We're talking</p> <p>14 about actual turnout.</p> <p>15 Q. Okay. I got you. So did the Senator do any</p> <p>16 research to determine whether voter registration rates</p> <p>17 changed in those states during the years in which there</p> <p>18 was an increase in voter turnout?</p> <p>19 MR. FREDERICK: Objection, legislative</p> <p>20 privilege. Instruct you not to answer.</p> <p>21 A. I'll assert privilege.</p> <p>22 Q. (By Ms. Maranzano) Did the Senator do any</p> <p>23 research to determine whether there were any close</p> <p>24 elections during those years?</p> <p>25 MR. FREDERICK: Objection, legislative</p>	<p style="text-align: center;">132</p> <p>1 I don't think it changed on the Floor after the Floor</p> <p>2 debate.</p> <p>3 Q. (By Ms. Maranzano) What were the changes that</p> <p>4 occurred in committee?</p> <p>5 A. I didn't -- I don't recall, and I didn't have</p> <p>6 time to review it.</p> <p>7 Q. I just want to go back to finish what you were</p> <p>8 talking about earlier, and just make sure. You said the</p> <p>9 Senator disagreed with the opposition that was brought</p> <p>10 up on the Floor, and then we talked about turnout.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Were there any other bases from the Senator's</p> <p>13 disagreement with the concerns that were raised on the</p> <p>14 Floor?</p> <p>15 MR. FREDERICK: Object on the legislative</p> <p>16 privilege only to the extent those bases were not</p> <p>17 disclosed. But if there's anything else on the record,</p> <p>18 you're free to address it.</p> <p>19 A. I don't remember if he had any other arguments.</p> <p>20 (Exhibit 33 marked for identification.)</p> <p>21 Q. (By Ms. Maranzano) Okay. Ms. McCoy, I'm</p> <p>22 showing you what we're marking for the record as</p> <p>23 Deposition Exhibit 33, and it's Bates labeled U.S.</p> <p>24 00005599 through U.S. 00005615. And I'd like to turn</p> <p>25 your attention to Page 5607 at the bottom and 5608.</p>

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<p style="text-align: center;">133</p> <p>1 Do you recognize this, sort of, the</p> <p>2 overall document?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Is it the Senate Journal from March 18th, 2009?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. And do you see on the pages I've directed you</p> <p>7 to, there's a letter that was submitted by Senator West?</p> <p>8 A. The letter was submitted by Senator Van de</p> <p>9 Putte. Senator West had comments further down the page.</p> <p>10 Q. Gotcha.</p> <p>11 A. Is that the letter you're referring to?</p> <p>12 Q. Yes, the letter that -- well, I'm referring to</p> <p>13 the letter the starts out by saying, "Senator West</p> <p>14 submitted the following statement."</p> <p>15 A. Oh, that's not a letter. That's his statement.</p> <p>16 Q. Okay.</p> <p>17 A. Uh-huh.</p> <p>18 Q. And then on the next page, if you see, it was</p> <p>19 signed off by Senators West, Ellis, Gallegos, Lucio,</p> <p>20 Shapleigh, Uresti, Van de Putte, Watson, Whitmire and</p> <p>21 Zaffirini?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. And can you look at Paragraph Number 8, and</p> <p>24 there's a sentence in there that says, "No Senator who</p> <p>25 is an ethnic minority has voted in favor of such</p>	<p style="text-align: center;">135</p> <p>1 range Texas, underscore, 00003857 through 00003920.</p> <p>2 And I'd like to direct your attention to</p> <p>3 Page 3911. It's the second page of this.</p> <p>4 Do you recognize -- first of all, do you</p> <p>5 recognize this document?</p> <p>6 A. I don't think I've seen the whole document, but</p> <p>7 I recognize it what it is.</p> <p>8 Q. Is it a transcript -- does it appear to be a</p> <p>9 copy of a transcript from the Committee of the Whole on</p> <p>10 March 10th, 2009?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Is that when you considered SB -- when the</p> <p>13 Senate considered SB 362?</p> <p>14 A. Yes.</p> <p>15 Q. Can you look at the bottom of 3911. It's a</p> <p>16 statement from Senator Fraser. And if you see at the</p> <p>17 bottom of the page, the statement says, "And I actually</p> <p>18 came back, and sat down, and I've got probably,</p> <p>19 interestingly, more research and more reading and debate</p> <p>20 on this bill maybe than one that I've ever done."</p> <p>21 Can you tell me what reading and research</p> <p>22 the Senator is referring to in that?</p> <p>23 MR. FREDERICK: Objection, legislative</p> <p>24 privilege. Instruct you not to answer.</p> <p>25 A. Again, I mean, the same reports and polls that</p>
<p style="text-align: center;">134</p> <p>1 legislation," and it's talking about voter ID</p> <p>2 legislation. Why do you think these senators felt the</p> <p>3 need to put in the record the fact that no ethnic</p> <p>4 minority had voted in favor of voter ID legislation?</p> <p>5 MR. FREDERICK: Objection, legislative</p> <p>6 privilege to the extent it calls for the thought process</p> <p>7 of these senators. If you can answer on a nonprivileged</p> <p>8 basis, you can.</p> <p>9 A. I cannot.</p> <p>10 Q. (By Ms. Maranzano) Did Senator Fraser place any</p> <p>11 significance on the fact that there was such unified</p> <p>12 opposition from the minority members of the Senate?</p> <p>13 MR. FREDERICK: Objection, legislative</p> <p>14 privilege. Instruct you not to answer.</p> <p>15 A. I'll assert privilege.</p> <p>16 Q. (By Ms. Maranzano) Why do you think there was</p> <p>17 such strong opposition to SB 362?</p> <p>18 MR. FREDERICK: Objection, legislative</p> <p>19 privilege. Objection, calls for speculation. I</p> <p>20 instruct you not to answer.</p> <p>21 A. I'll assert privilege.</p> <p>22 (Exhibit 34 marked for identification.)</p> <p>23 Q. (By Ms. Maranzano) Okay. I'm showing you what</p> <p>24 we're marking as Deposition Exhibit 34.</p> <p>25 For the record, it's labeled Texas, Bates</p>	<p style="text-align: center;">136</p> <p>1 I referenced earlier would be what he was referencing</p> <p>2 there.</p> <p>3 Q. (By Ms. Maranzano) Nothing in addition to what</p> <p>4 you've already testified about?</p> <p>5 A. No, ma'am.</p> <p>6 (Exhibit 35 marked for identification.)</p> <p>7 Q. (By Ms. Maranzano) Okay. We marked this as</p> <p>8 Deposition Exhibit 35. It's TX underscore 00 --</p> <p>9 A. It's the same one you just gave us.</p> <p>10 Q. Oh, okay. Well, we have two copies. I'm going</p> <p>11 to -- all right. Let's just use the same exhibit, then.</p> <p>12 I'm going to direct your attention</p> <p>13 Page 3940.</p> <p>14 A. Uh-huh.</p> <p>15 Q. And do you see there is a comment from Senator</p> <p>16 Watson?</p> <p>17 A. Oh, maybe it is different. Uh-huh. Yes.</p> <p>18 Q. Yes. Okay. And do you see that he asks a</p> <p>19 question: "Are you familiar with any data or study</p> <p>20 that's been done with regard to some sort of statistical</p> <p>21 analysis concerning the effect of the new requirements</p> <p>22 of Senate Bill 362?" And then on the next page, you see</p> <p>23 Senator Fraser has an answer, and at the end of that,</p> <p>24 that paragraph, he says, "I think you're asking a</p> <p>25 subjective question that we have objective data that is</p>

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<p style="text-align: center;">137</p> <p>1 available that the witnesses are going to lay out. 2 You're asking have I done that? The answer is no." Do 3 you see all that? 4 A. Uh-huh. 5 Q. Do you recall this testimony? 6 A. Not specifically, but... 7 Q. Did Senator Fraser ever do any research on how 8 SB 362 would impact minority voters? 9 MR. FREDERICK: Objection, legislative 10 privilege. Instruct you not to answer. 11 Q. (By Ms. Maranzano) Was there any testimony 12 presented during the debate of SB 362 by Senator Fraser 13 about any analysis related to the impact that the bill 14 would have on minority voters? 15 A. I think the only testimony that Senator Fraser 16 might have talked about, in terms of voter turnout, 17 minority or not, was the election results from Indiana 18 and Georgia. 19 Q. Did SB 362 pass the Senate? 20 A. Yes. 21 Q. Did Senator Fraser have any role with regard to 22 SB 362 once it was referred to the House? 23 A. No. 24 Q. Did you have any role? 25 A. I met with Representative Todd Smith once.</p>	<p style="text-align: center;">139</p> <p>1 Q. Okay. All right. Thank you for the 2 distinction. 3 A. Yeah. I don't -- yeah. 4 Q. You testified earlier about Senate Bill 363. 5 Do you recall that -- 6 A. Yes, ma'am. 7 Q. -- when we read the news article? 8 Can we have this marked as Exhibit 36? 9 (Exhibit 36 marked for identification.) 10 Q. (By Ms. Maranzano) Does this appear to be a 11 copy of Senate Bill 363 that you referred to earlier? 12 A. Yes, ma'am. 13 Q. What are the general requirements of this 14 legislation in regard to voter registration applicants? 15 A. Honestly, without reading it again, I can't 16 tell you. 17 Q. Would it sound correct to you if I said that 18 this requires voter registration applicants to prove 19 citizenship? 20 MR. FREDERICK: And take your time to read 21 it, if you need to. 22 A. (Viewing documents.) Yes. 23 Q. (By Ms. Maranzano) What was the purpose of 24 Senate Bill 363? 25 MR. FREDERICK: I object to legislative</p>
<p style="text-align: center;">138</p> <p>1 Q. Anybody else? 2 A. No. 3 Q. What was your meeting with Representative Smith 4 about? 5 MR. FREDERICK: Object, legislative 6 privilege to the extent it seeks the substance of the 7 communications, but you are free to describe general 8 subject matter of the meeting, if you can. 9 A. Senate Bill 14. I mean, specifically the 10 provisions in Senate Bill 14. 11 Q. (By Ms. Maranzano) And did Representative Smith 12 carry Senate Bill -- oh, wait. Did you say Senate Bill 13 14? 14 A. Oh, I'm sorry. Senate Bill 362. I'm sorry. 15 Q. Did Representative Smith carry Senate Bill 362 16 in the House? 17 A. Yes. 18 Q. And did the bill pass the House? 19 A. No. 20 Q. Why not? 21 A. It ran out of time. 22 Q. Was it essentially filibustered in the House? 23 A. I don't really remember how that worked, but I 24 think it -- yes. No. That's the wrong term. The 25 calendar was filibustered.</p>	<p style="text-align: center;">140</p> <p>1 privilege to the extent that it seeks mental 2 impressions, thought process, or confidential 3 communications, but to the extent that the question just 4 seeks the purpose of the bill, then you may answer, if 5 you know. 6 A. I don't remember. 7 Q. (By Ms. Maranzano) Was this filed at the same 8 time as Senate Bill 362? 9 A. Yes, ma'am. 10 Q. Were they filed -- would you say these bills 11 were filed in conjunction with each other? 12 A. Yes, ma'am. 13 Q. Why would it be necessary for a voter 14 registration applicant to prove their citizenship? 15 MR. FREDERICK: Objection, calls for 16 speculation. 17 A. I don't remember this bill. 18 Q. (By Ms. Maranzano) Did you work on this bill, 19 Ms. McCoy? 20 A. Not since it was filed in November of 2008. 21 Q. Do you recall that press release that we looked 22 at earlier today? 23 A. Yes, ma'am. 24 Q. And did it mention Senate Bill 363? 25 A. Yes, ma'am.</p>

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<p style="text-align: center;">141</p> <p>1 Q. And didn't you testify that you had written</p> <p>2 that press release?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Are you aware of any evidence that noncitizens</p> <p>5 register to vote?</p> <p>6 MR. FREDERICK: I'll object, legislative</p> <p>7 privilege, to the extent this seeks your thought</p> <p>8 process, mental impressions or those of Senator Fraser</p> <p>9 related to this pending legislation. To the extent you</p> <p>10 can answer just based on general knowledge, if you can,</p> <p>11 you're free to do so.</p> <p>12 A. I don't know.</p> <p>13 Q. (By Ms. Maranzano) You don't know of any</p> <p>14 evidence?</p> <p>15 A. I do not.</p> <p>16 Q. Did you look into any such evidence when you</p> <p>17 were working on Senate Bill 363?</p> <p>18 MR. FREDERICK: Objection, legislative</p> <p>19 privilege. Instruct you not to answer.</p> <p>20 A. I don't recall.</p> <p>21 Q. (By Ms. Maranzano) Are you familiar with a</p> <p>22 federal law called the Help America Vote Act?</p> <p>23 A. Yes.</p> <p>24 Q. Does HAVA, the Help America Vote Act, implement</p> <p>25 certain identification requirements for voter</p>	<p style="text-align: center;">143</p> <p>1 Q. (By Ms. Maranzano) Do you know what ethnic</p> <p>2 group makes up the largest percentage of the noncitizen</p> <p>3 population in Texas?</p> <p>4 A. The noncitizen --</p> <p>5 Q. Uh-huh.</p> <p>6 A. -- population in Texas? No.</p> <p>7 Q. How long have you lived in Texas?</p> <p>8 A. My whole life.</p> <p>9 Q. And you have no idea what ethnic group makes up</p> <p>10 the largest -- percentage of the noncitizen population?</p> <p>11 A. Do you want me to guess?</p> <p>12 MR. FREDERICK: Objection, argumentative.</p> <p>13 Q. (By Ms. Maranzano) You can make an educated</p> <p>14 guess.</p> <p>15 A. Hispanic.</p> <p>16 Q. And what's your educated guess based on? Your</p> <p>17 time in Texas?</p> <p>18 A. We're close to Mexico.</p> <p>19 Q. Okay. Let's talk about Senate Bill 14. When</p> <p>20 did Senator Fraser introduce Senate Bill 14?</p> <p>21 A. In November of 2010, Senator Fraser filed a</p> <p>22 piece of legislation -- and I don't recall the bill</p> <p>23 number -- that was essentially Senate Bill 14. When</p> <p>24 session started, we refiled that legislation as Senate</p> <p>25 Bill 14, so it was right January of 2011.</p>
<p style="text-align: center;">142</p> <p>1 registration applicants?</p> <p>2 A. Yes.</p> <p>3 Q. Is there any reason to think that those forms</p> <p>4 of identification wouldn't be sufficient?</p> <p>5 MR. FREDERICK: Objection, calls for</p> <p>6 speculation. You can answer if you can.</p> <p>7 A. Well, my understanding is, HAVA requires your</p> <p>8 driver's license or your social security card number.</p> <p>9 Those are the photo -- those are the IDs.</p> <p>10 Q. And if a person does not list those forms of</p> <p>11 identification on their voter registration application,</p> <p>12 are you familiar with any additional requirements?</p> <p>13 A. When they go to vote the first time, they're</p> <p>14 supposed to show some form of ID.</p> <p>15 Q. And do you know what forms of ID are acceptable</p> <p>16 HAVA?</p> <p>17 A. I do not.</p> <p>18 Q. Do you know if it's only photo identification?</p> <p>19 A. I think it's more than that, but I don't know</p> <p>20 specifically.</p> <p>21 Q. Did you look into the requirements of HAVA when</p> <p>22 you were working on any voter identification bills?</p> <p>23 MR. FREDERICK: Object, legislative</p> <p>24 privilege. Instruct you not to answer.</p> <p>25 A. I'll assert privilege.</p>	<p style="text-align: center;">144</p> <p>1 Q. Would it sound correct to you if I say: Did he</p> <p>2 introduce a bill that's called Senate Bill 178?</p> <p>3 A. That's it. Yes, ma'am.</p> <p>4 Q. And that was the one that was introduced prior</p> <p>5 to the session beginning?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. Was that the same as Senate Bill 14 as it was</p> <p>8 introduced?</p> <p>9 A. No, ma'am.</p> <p>10 Q. What were the changes?</p> <p>11 A. There was a provision added to Senate Bill 14</p> <p>12 to exempt certain elderly people from the provisions of</p> <p>13 voter ID.</p> <p>14 Q. And how did that get added?</p> <p>15 MR. FREDERICK: Object, legislative</p> <p>16 privilege. If you can answer without revealing</p> <p>17 confidential communications or thought processes, you</p> <p>18 may.</p> <p>19 A. I'll assert privilege.</p> <p>20 Q. (By Ms. Maranzano) Did anyone ask Senator</p> <p>21 Fraser to introduce Senate Bill 14?</p> <p>22 MR. FREDERICK: Object, legislative</p> <p>23 privilege. Instruct you not to answer.</p> <p>24 A. I'll assert privilege.</p> <p>25 Q. (By Ms. Maranzano) Did Senator Fraser ever make</p>

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<p style="text-align: center;">145</p> <p>1 any public commitments to introduce Senate Bill 14 after</p> <p>2 Senate Bill 362 did not get enacted?</p> <p>3 A. Probably, but I can't definitively say.</p> <p>4 Q. Was Senate Bill 14 given a designation by</p> <p>5 Governor Perry as emergency legislation?</p> <p>6 A. Governor Perry designated photo ID as an</p> <p>7 emergency. I don't think that order specifically said</p> <p>8 that bill number.</p> <p>9 Q. What does it mean to be designated emergency</p> <p>10 legislation?</p> <p>11 A. According to the constitution, the Legislature</p> <p>12 can't do anything substantive for 60 days unless the</p> <p>13 Governor says it's an emergency.</p> <p>14 Q. How did photo ID come to be included in the</p> <p>15 Governor's designation?</p> <p>16 A. I don't know. I'll just tell you. I mean...</p> <p>17 Q. Did you have any conversations with anyone in</p> <p>18 the Governor's Office about the emergency designation?</p> <p>19 A. No.</p> <p>20 Q. Did the Senator?</p> <p>21 A. I don't know.</p> <p>22 Q. Why would photo ID requirements need to be</p> <p>23 considered within the first 60 days of the legislative</p> <p>24 session?</p> <p>25 MR. FREDERICK: Objection, calls for</p>	<p style="text-align: center;">147</p> <p>1 MR. FREDERICK: I think that's calls</p> <p>2 for --</p> <p>3 THE WITNESS: Sorry.</p> <p>4 MR. FREDERICK: Just let me finish my</p> <p>5 objection, please.</p> <p>6 THE WITNESS: Okay.</p> <p>7 Q. (By Ms. Maranzano) Who in the Lieutenant</p> <p>8 Governor's Office did you have a conversation with?</p> <p>9 A. Julia Rathgeber and Blaine Brunson.</p> <p>10 Q. How many conversations did you have with them?</p> <p>11 A. Probably two on that issue.</p> <p>12 Q. How many conversations did you have with the</p> <p>13 Lieutenant Governor's Office about SB 14?</p> <p>14 A. I probably spoke to them once or twice a day</p> <p>15 during the whole process until voter ID left the Senate.</p> <p>16 Q. And is there anybody, other than the people</p> <p>17 that you've already testified to from the Lieutenant</p> <p>18 Governor's Office, who you were communicating with?</p> <p>19 A. In the Lieutenant Governor's Office?</p> <p>20 Q. Uh-huh.</p> <p>21 A. No.</p> <p>22 Q. So am I correct that it was Julia Rathgeber,</p> <p>23 Blaine Brunson and Bryan Hebert?</p> <p>24 A. Uh-huh.</p> <p>25 (Brief discussion held off the record.)</p>
<p style="text-align: center;">146</p> <p>1 speculation. You can answer if you know.</p> <p>2 A. I don't know.</p> <p>3 Q. (By Ms. Maranzano) Were there any elections</p> <p>4 scheduled within the first 60 days of 2011, of the 2011</p> <p>5 legislative session?</p> <p>6 A. I don't think so, but I can't speak to every</p> <p>7 election that local governments or...</p> <p>8 Q. What other categories of -- what other topics</p> <p>9 were given emergency designation in 2011?</p> <p>10 A. I don't remember.</p> <p>11 Q. Does legislation automatically get considered</p> <p>12 within the first 60 days if it's designated as emergency</p> <p>13 legislation?</p> <p>14 A. No.</p> <p>15 Q. Who makes the decision whether or not the</p> <p>16 legislation will be heard within the first 60 days?</p> <p>17 A. My guess is leadership, Lieutenant Governor or</p> <p>18 the Speaker. They set the calendars.</p> <p>19 Q. Did you have any conversations with anybody in</p> <p>20 the Lieutenant Governor's Office about SB 14 getting</p> <p>21 heard within the first 60 days of the 2011 legislative</p> <p>22 session?</p> <p>23 MR. FREDERICK: Object, legislative</p> <p>24 privilege.</p> <p>25 A. Yes.</p>	<p style="text-align: center;">148</p> <p>1 Q. (By Ms. Maranzano) Okay. Ms. McCoy, I'm</p> <p>2 showing you what we've marked as Deposition Exhibit 5</p> <p>3 for the record. Do you recognize what this is?</p> <p>4 A. It's the enrolled version of Senate Bill 14.</p> <p>5 Q. And can you look at Section 14 of the bill and</p> <p>6 tell me what forms of identification are permitted under</p> <p>7 Senate Bill 14?</p> <p>8 A. A driver's license, an election ID certificate,</p> <p>9 an ID card by DPS, a military ID card, a citizens</p> <p>10 certificate, a passport, and a license to carry a</p> <p>11 concealed handgun.</p> <p>12 Q. What is a military identification card?</p> <p>13 A. My understanding is it's a card issued by the</p> <p>14 Department of Defense.</p> <p>15 Q. Is it your understanding that only the</p> <p>16 Department of Defense issues military IDs that would be</p> <p>17 acceptable under SB 14?</p> <p>18 A. Yes.</p> <p>19 Q. And what's that understanding based on?</p> <p>20 MR. FREDERICK: We'll object on</p> <p>21 legislative privilege, only to the extent it would</p> <p>22 require you to disclose confidential communications or</p> <p>23 thought process. If it's based on something outside of</p> <p>24 that, then you're free to answer.</p> <p>25 A. I'll assert privilege.</p>

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<p style="text-align: center;">149</p> <p>1 Q. (By Ms. Maranzano) Have you ever seen a 2 military ID card? 3 A. No. 4 Q. Do you know if veterans ID -- a veterans 5 identification is an acceptable form of military 6 identification under SB 14? 7 A. I don't believe that it is. 8 Q. And what is that based on? 9 A. The Department of Veterans Affairs is not a 10 military. It's an executive branch agency. 11 Q. Do you know if any Department of Homeland 12 Security identifications would be considered acceptable 13 under SB 14? 14 A. Again, I would say no. 15 Q. And what is that based on? 16 A. That they're not also not military. They're 17 not under the Department of Defense. 18 Q. What is a citizenship certificate? 19 A. My understanding is when someone becomes a 20 citizen of the United States, they are issued a 21 certificate showing that they are now a citizen. 22 Q. Do you know how much it costs to get a 23 citizenship certificate? 24 A. No. 25 Q. Do you know how much it costs to get a United</p>	<p style="text-align: center;">151</p> <p>1 A. No, ma'am. It's an administrative arm of the 2 Senate. 3 Q. Do they provide legal advice about whether a 4 law complies with federal law? 5 A. No. 6 Q. Are they connected at all to the Texas 7 Legislative Council? 8 A. No. 9 Q. How are those two bodies different? 10 A. The Texas Legislative Council -- well, Senate 11 Engrossing and Enrolling is strictly a body that's 12 designed to assist the senators, but they do the same 13 essential work. They work just for the Senate. 14 MS. MARANZANO: Mr. Frederick, have you 15 produced any documents from the Engrossing and Enrolling 16 branch that Ms. McCoy is testifying about? 17 MR. FREDERICK: I am not aware at this 18 time whether or not we have. 19 MS. MARANZANO: Have you reached out to 20 them in terms of the document requests that were 21 propounded on the State of Texas? 22 MR. FREDERICK: I'm not aware that we 23 have. 24 MS. MARANZANO: It sounds to me like they 25 might have relevant documents, so I'd request that you</p>
<p style="text-align: center;">150</p> <p>1 States passport? 2 A. No. 3 Q. Did you look into the cost of obtaining these 4 IDs when you were working on SB 14? 5 A. No. 6 Q. Can you look at Page 11, Section 16 of the 7 bill? Does SB 14 increase criminal penalties for a 8 person who impersonates a voter? 9 A. Yes. 10 Q. Were you involved in the drafting of SB 14? 11 A. Yes. 12 Q. What involvement did you have? 13 A. I presented options to Senator Fraser, and when 14 he determined what he wanted included in the bill, I had 15 it drafted by Senate Engrossing and Enrolling. 16 Q. Who is Senate Engrossing and Enrolling? 17 A. It's an administrative arm of the Senate that 18 works on -- it's a group of lawyers that help us with 19 bill drafts and amendments. 20 Q. What options did you present to Senator Fraser? 21 MR. FREDERICK: Objection, legislative 22 privilege. Instruct you not to answer. 23 A. I'll assert privilege. 24 Q. (By Ms. Maranzano) Does Senate Engrossing and 25 Enrolling -- did you say that was a committee?</p>	<p style="text-align: center;">152</p> <p>1 all do that. 2 Q. (By Ms. Maranzano) Did you also work with the 3 TLC, Ms. McCoy, in developing SB 14? 4 A. Yes. 5 Q. And what was the TLC's role? 6 A. I'm trying to remember if we did substitutes or 7 amendments. But they assisted me with either a 8 substitute or potential amendments. And then at the 9 end, they also assisted me with the conference committee 10 reports. 11 Q. When you say -- all right. So the substitute, 12 can you tell me what the substitute was? 13 A. I don't remember how we moved this bill through 14 the process. I don't remember if we had a substitute. 15 I don't remember if we had amendments. So once we filed 16 the bill with the E & E draft, I used the Legislative 17 Council, as we moved forward, with whatever drafting 18 needs I had. But I don't remember what those drafting 19 needs are -- were. 20 Q. So just so I'm clear, what -- how do you 21 distinguish between the drafting E & E does versus the 22 drafting that Texas Legislative Council does? Is it the 23 process that the bill is in, or is there another 24 distinction? 25 A. Senate Engrossing and Enrolling moves a lot</p>

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<p style="text-align: center;">153</p> <p>1 faster, so when we need quick drafts, we tend to use</p> <p>2 them. Legislative Council is a little bit slower, but</p> <p>3 they review all of the sections of the code to make sure</p> <p>4 that we're -- if something needs to get changed for</p> <p>5 compliance -- not -- compliance is not the right word,</p> <p>6 but settle up reasons, they'll say, "Hey, if you're</p> <p>7 amending this section of code, you need to address this</p> <p>8 section, too." And so sometimes we go through Leg</p> <p>9 Council, even though we know it's going slower, to make</p> <p>10 sure that we've hit every part of the code or statute</p> <p>11 that we need to.</p> <p>12 Q. And does Leg Council also look at how</p> <p>13 legislation interacts with federal law?</p> <p>14 A. I don't know.</p> <p>15 Q. So did you go through the Engrossing and</p> <p>16 Enrolling with the initial draft of SB 14 because you</p> <p>17 were on an expedited -- because you were -- it was</p> <p>18 because the bill was given emergency designation?</p> <p>19 A. No. We used Engrossing and Enrolling in</p> <p>20 November because we wanted to get the bill filed as</p> <p>21 close to the first day of filing as we could.</p> <p>22 Q. And why was that?</p> <p>23 A. The Senator just wanted to.</p> <p>24 Q. Were there multiple drafts of SB 14 prior to it</p> <p>25 being introduced?</p>	<p style="text-align: center;">155</p> <p>1 that's this Engrossing and Enrolling?</p> <p>2 A. Yes, ma'am. That's how we call them.</p> <p>3 Q. Okay. Who from E & E did you work with on</p> <p>4 Senate Bill 14?</p> <p>5 A. Mardi, M-a-r-d-i, Alexander was my contact.</p> <p>6 Q. Anybody else?</p> <p>7 A. She was head of E & E. I think she assigned it</p> <p>8 to a lawyer, but she's who I dealt with.</p> <p>9 Q. How did you communicate with Ms. Alexander?</p> <p>10 A. E-mail.</p> <p>11 Q. Did you save those e-mails?</p> <p>12 A. If I printed out the e-mail, I saved it. If it</p> <p>13 was not printed out, then it was not saved.</p> <p>14 Q. And would those be in your files if you printed</p> <p>15 out the e-mails?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And that's the files that we talked about</p> <p>18 earlier that you kept of SB 362 and SB 14?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Do you know about how many e-mails you</p> <p>21 exchanged Ms. Alexander?</p> <p>22 A. Three or four.</p> <p>23 Q. For the whole process of drafting SB 14?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. Was there anything you looked at, when you were</p>
<p style="text-align: center;">154</p> <p>1 A. Yes.</p> <p>2 Q. And would E & E, Engrossing and Enrolling, be</p> <p>3 the -- would they be the holders of those drafts?</p> <p>4 A. No.</p> <p>5 Q. Who would?</p> <p>6 A. Me.</p> <p>7 Q. And did you keep them?</p> <p>8 A. Yes.</p> <p>9 Q. And did you turn them over to your counsel?</p> <p>10 A. Yes.</p> <p>11 Q. Did Senate Engrossing and Enrolling draft</p> <p>12 SB 362 as well?</p> <p>13 A. Yes.</p> <p>14 Q. Did they draft HB 218 as well?</p> <p>15 A. Oh, I'm sorry. No, no, no. I'm sorry. I got</p> <p>16 confused. Senate Bill 362 in 2009 was drafted by</p> <p>17 Legislative Council.</p> <p>18 Q. And why was that one drafted by Legislative</p> <p>19 Council?</p> <p>20 A. Because it was -- I think what I filed as</p> <p>21 Senate Bill 362 was the Senate Committee report of House</p> <p>22 Bill 218. So that's all I asked them to do, was, like</p> <p>23 would you just make this document ready to file, and</p> <p>24 they did.</p> <p>25 Q. Who from -- if I say E & E, can we agree that</p>	<p style="text-align: center;">156</p> <p>1 developing SB 14, that you haven't already testified to,</p> <p>2 when we were talking about other bills?</p> <p>3 MR. FREDERICK: Object, legislative</p> <p>4 privilege. Instruct you not to answer.</p> <p>5 A. I'll assert privilege.</p> <p>6 Q. (By Ms. Maranzano) Did you have any</p> <p>7 communications about SB 14 with other legislators?</p> <p>8 A. Yes.</p> <p>9 Q. Which legislators?</p> <p>10 A. Throughout the process?</p> <p>11 Q. Uh-huh.</p> <p>12 A. I would say probably 90 percent of the</p> <p>13 senators. Representative Harless.</p> <p>14 Q. Anyone else?</p> <p>15 A. I'm trying to think. That's -- I mean, those</p> <p>16 are the ones I can remember. House members. Other</p> <p>17 House members potentially, but it was probably more of</p> <p>18 size than substantive.</p> <p>19 Q. Did you have communications with any</p> <p>20 individuals from the Governor's Office about SB 14?</p> <p>21 A. Yes.</p> <p>22 Q. And who was that?</p> <p>23 A. Michael Scofield.</p> <p>24 Q. When was that?</p> <p>25 A. Throughout the legislative session.</p>

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<p style="text-align: center;">157</p> <p>1 Q. Were those communications verbal or written?</p> <p>2 A. Verbal.</p> <p>3 Q. By phone or in person?</p> <p>4 A. Both.</p> <p>5 Q. Was Senator Fraser involved in those</p> <p>6 communications?</p> <p>7 A. Yes.</p> <p>8 Q. In none of them?</p> <p>9 A. No.</p> <p>10 Q. What was the nature of those communications?</p> <p>11 MR. FREDERICK: I'll object, legislative</p> <p>12 privilege. Instruct you not to answer.</p> <p>13 A. I'll assert.</p> <p>14 Q. (By Ms. Maranzano) Did you have communications</p> <p>15 about SB 14 with any interest groups or lobbyists?</p> <p>16 A. Yes.</p> <p>17 Q. What groups?</p> <p>18 A. I talked to AARP a couple of times. I'm pretty</p> <p>19 sure the Disability Coalition, although I'm not sure</p> <p>20 that's how they're known, came in a time or two, and</p> <p>21 that group out of Houston, the Patriots or the -- I</p> <p>22 can't think of what their name is.</p> <p>23 Q. Does the King Street Patriots sound correct?</p> <p>24 A. Yes, ma'am. The King Street Patriots. I think</p> <p>25 they came in once. Other than that, I can't think of</p>	<p style="text-align: center;">159</p> <p>1 Q. What was the nature of those conversations?</p> <p>2 MR. FREDERICK: Object on legislative</p> <p>3 privilege and instruct you not to answer.</p> <p>4 A. I'll assert.</p> <p>5 Q. (By Ms. Maranzano) Can you tell me the general</p> <p>6 nature of your conversation with Mr. Bettencourt in</p> <p>7 terms of a --</p> <p>8 A. I generally am having a hard -- I think -- I</p> <p>9 know I talked to him.</p> <p>10 Q. Uh-huh.</p> <p>11 A. And generally, I'm -- I honestly don't recall</p> <p>12 that he was helpful to me. I don't really remember. We</p> <p>13 generally talked about Senate Bill 14.</p> <p>14 Q. How about the general nature of your</p> <p>15 conversation with the King Street Patriots?</p> <p>16 MR. FREDERICK: To the extent it's a</p> <p>17 general subject matter, I'll permit you to answer.</p> <p>18 THE WITNESS: Right. Okay.</p> <p>19 A. I think generally, they came in to talk about</p> <p>20 their history of monitoring elections in Harris County.</p> <p>21 Q. (By Ms. Maranzano) Did they bring up any</p> <p>22 in-person voter impersonation?</p> <p>23 MR. FREDERICK: Object, legislative</p> <p>24 privilege and instruct you not to answer.</p> <p>25 A. I'll assert.</p>
<p style="text-align: center;">158</p> <p>1 any particular interest group that came in.</p> <p>2 Q. Did you have any communications with a group by</p> <p>3 the name of American Legislative Exchange Council, or</p> <p>4 ALEC, about SB 14?</p> <p>5 A. I did not.</p> <p>6 Q. Did the Senator?</p> <p>7 A. Not to my recollection.</p> <p>8 Q. Did you have any communications with an</p> <p>9 individual by the name of Catherine Engelbrecht about SB</p> <p>10 14?</p> <p>11 A. I did not, but I think she testified. Did she</p> <p>12 testify in the Senate? I can't remember. I'm sorry.</p> <p>13 Q. Did you have any communications with an</p> <p>14 individual by the name of Paul Bettencourt about SB 14?</p> <p>15 A. Yes.</p> <p>16 Q. How many?</p> <p>17 A. Maybe two.</p> <p>18 Q. And do you remember when -- when were those</p> <p>19 communications?</p> <p>20 A. I do not recall.</p> <p>21 Q. Were they in person or by phone?</p> <p>22 A. By phone.</p> <p>23 Q. Were you and he the only parties to those</p> <p>24 conversations?</p> <p>25 A. As far as I know, yes.</p>	<p style="text-align: center;">160</p> <p>1 Q. (By Ms. Maranzano) Did you say there was a</p> <p>2 disability group that came in, disability advocate?</p> <p>3 A. I don't -- I think that the disability</p> <p>4 lobbyists, interest group came in as we were in</p> <p>5 conference committee to talk to me about the language</p> <p>6 that was added -- that was amended by the House.</p> <p>7 Q. And what was that amendment?</p> <p>8 A. It was the Section 1 of the bill.</p> <p>9 Q. And were they concerned about that?</p> <p>10 MR. FREDERICK: Objection, legislative</p> <p>11 privilege. Instruct you not to answer.</p> <p>12 Q. (By Ms. Maranzano) Did you have any</p> <p>13 communications about SB 14 with an individual by the</p> <p>14 name of Hans von Spakovsky?</p> <p>15 A. No.</p> <p>16 Q. Did you have any communications with any local</p> <p>17 election officials about SB 14?</p> <p>18 A. I don't recall.</p> <p>19 Q. Did you have any communications with the Texas</p> <p>20 Republican Party about SB 14?</p> <p>21 A. I don't think so, but I don't recall.</p> <p>22 Q. Did Senator Fraser exchange drafts of SB 14</p> <p>23 with anyone other than Engrossing and Enrolling or TLC?</p> <p>24 MR. FREDERICK: We'll object on</p> <p>25 legislative privilege to the extent that it seeks the</p>

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<p style="text-align: center;">161</p> <p>1 substance of those drafts, but the fact that drafts were</p> <p>2 exchanged, you can testify if you remember.</p> <p>3 A. No.</p> <p>4 Q. (By Ms. Maranzano) Did he discuss drafts of the</p> <p>5 bill with anybody other than E & E or the Legislative</p> <p>6 Council?</p> <p>7 MR. FREDERICK: Same objection and</p> <p>8 instruction. The fact of the communications you can</p> <p>9 identify.</p> <p>10 A. I don't think so.</p> <p>11 (Discussion held off the record.)</p> <p>12 (Exhibit 37 marked for identification.)</p> <p>13 Q. (By Ms. Maranzano) Can you take a look at --</p> <p>14 and what exhibit number is -- 23? Okay. So I'm showing</p> <p>15 what we're marking as Deposition Exhibit 37, along with</p> <p>16 what's been previously marked as Deposition Exhibit 23.</p> <p>17 And can you look at 37 for a moment and</p> <p>18 tell me if you recognize that document?</p> <p>19 A. I do.</p> <p>20 Q. What is that?</p> <p>21 A. That's a declaration.</p> <p>22 Q. And is that your declaration?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Did you sign that in response to providing</p> <p>25 information that's contained in Interrogatory Response</p>	<p style="text-align: center;">163</p> <p>1 supplying this information.</p> <p>2 MR. FREDERICK: Okay. Yeah. You can</p> <p>3 answer.</p> <p>4 A. Okay. Well, I worked with the Attorney</p> <p>5 General's Office and Colby in Representative Harless's</p> <p>6 office to try and remember who helped in developing and</p> <p>7 analyzing Senate Bill 14, and amongst three offices,</p> <p>8 this is the list we produced.</p> <p>9 Q. (By Ms. Maranzano) Did you review any documents</p> <p>10 when you were compiling this list?</p> <p>11 A. No.</p> <p>12 Q. Did you review any e-mails when you were</p> <p>13 compiling this list?</p> <p>14 A. No.</p> <p>15 Q. Did you review anything, or is this solely from</p> <p>16 your memory and Mr. Beuck's memory?</p> <p>17 A. I can't speak for Mr. Beuck in terms of how he</p> <p>18 developed.</p> <p>19 Q. Okay. Good point. The names that you provided</p> <p>20 here, are they solely from your memory?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. With regard to Page 3 and 4, do you see there's</p> <p>23 a list of several legislators: Representative Pena,</p> <p>24 Representative Gonzalez, Representative Aliseda, and</p> <p>25 they are described as co-sponsors and joint sponsors?</p>
<p style="text-align: center;">162</p> <p>1 Number 1 in Deposition Exhibit 23?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. What did you do to compile the list of names</p> <p>4 that's included in Response Number 1?</p> <p>5 MR. FREDERICK: I'm going to object to</p> <p>6 that on grounds of work product.</p> <p>7 MS. MARANZANO: But she's verifying the</p> <p>8 names. I'm just asking her what she did to compile the</p> <p>9 information. Is that --</p> <p>10 MR. ROSENBERG: Whose work product?</p> <p>11 MR. FREDERICK: Well, she compiled the</p> <p>12 information at the direction of an attorney, namely</p> <p>13 me. I mean...</p> <p>14 MS. MARANZANO: I mean, I'm interested in</p> <p>15 what she did to come up with the information of who</p> <p>16 participated in the process of putting SB 14 together.</p> <p>17 Did she talk to people? Did she go through records? Is</p> <p>18 that, in your mind, work product?</p> <p>19 MR. FREDERICK: Hmm. I mean, if she can</p> <p>20 answer without waiving the objection.</p> <p>21 MS. MARANZANO: What about this: What did</p> <p>22 you do to make sure this was a complete list of</p> <p>23 individuals responsive to Interrogatory Number 1? Does</p> <p>24 that alleviate your concerns, Mr. Frederick? I mean,</p> <p>25 she did verify in a sworn declaration that she was</p>	<p style="text-align: center;">164</p> <p>1 A. Uh-huh.</p> <p>2 Q. Are there additional joint sponsors and</p> <p>3 co-sponsors of SB 14?</p> <p>4 A. There's additional co-authors. All of the 18</p> <p>5 Senate Republicans signed on as co-authors. I do not</p> <p>6 know if there were additional co-sponsors in the House.</p> <p>7 Q. You know, I'm going to show you what we've</p> <p>8 marked -- what was this -- this has been previously</p> <p>9 marked as Deposition Exhibit 8.</p> <p>10 A. Uh-huh.</p> <p>11 Q. Can you look at that and tell me if it</p> <p>12 refreshes your recollection as to are there other</p> <p>13 co-sponsors of SB 14?</p> <p>14 A. Like I said, all the other 18 Republicans and</p> <p>15 apparently, quite a few House members also were</p> <p>16 co-sponsors.</p> <p>17 Q. So why are only these three of the co-sponsors,</p> <p>18 these three legislators who co-sponsored or joint</p> <p>19 sponsored the bill, listed in response to Interrogatory</p> <p>20 Number 1?</p> <p>21 MR. FREDERICK: You know, I let you ask</p> <p>22 her a little bit. I'm very uncomfortable with this line</p> <p>23 of questioning, because I think it invades attorney work</p> <p>24 product that goes to the process of answering discovery</p> <p>25 and I object to the question on grounds of work product</p>

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<p style="text-align: center;">165</p> <p>1 privilege, the work product immunity.</p> <p>2 MS. MARANZANO: Okay. I mean, our</p> <p>3 position is she signed a sworn declaration that this is</p> <p>4 complete and accurate information.</p> <p>5 MR. FREDERICK: I would disagree.</p> <p>6 MS. MARANZANO: True and correct.</p> <p>7 MR. FREDERICK: Yes, that I would agree</p> <p>8 to.</p> <p>9 MS. MARANZANO: And so our position is</p> <p>10 that we should be able to question her about what she</p> <p>11 did to make sure it was true and correct and what she</p> <p>12 meant, you know, by listing these as the individuals who</p> <p>13 are responsive to the request. It's about the three.</p> <p>14 The question remains about the three</p> <p>15 co-sponsors and joint -- and the -- about Representative</p> <p>16 Aliseda, Representative Gonzalez, Representative Pena,</p> <p>17 and why those three individuals are listed in response</p> <p>18 to Interrogatory Number 1 and why the other co-sponsors</p> <p>19 are not listed. So let's just, you know, be clear. Are</p> <p>20 you going to instruct her not to answer that question?</p> <p>21 MR. FREDERICK: No. I'll permit her to</p> <p>22 respond subject to my objection.</p> <p>23 Q. (By Ms. Maranzano) So the question is about why</p> <p>24 Representative Pena, Gonzalez and Aliseda are listed</p> <p>25 here, and the description provided for them is that they</p>	<p style="text-align: center;">167</p> <p>1 you testimony from yesterday?</p> <p>2 A. Sure.</p> <p>3 Q. The question was: "And the State of Texas has</p> <p>4 indicated that Mr. Beuck assisted with the drafting,</p> <p>5 development, and passage of SB 14 in the Texas House of</p> <p>6 Representatives. Are you aware of any assistance that</p> <p>7 Mr. Beuck provided concerning the drafting of SB 14?"</p> <p>8 Representative Harless said, "I have no</p> <p>9 idea."</p> <p>10 "Were you aware of any assistance he</p> <p>11 provided in the development of SB 14?"</p> <p>12 Representative Harless said, "I have no</p> <p>13 idea."</p> <p>14 MR. FREDERICK: Can I get page and line</p> <p>15 cite for that?</p> <p>16 MS. MARANZANO: Yes. That is, of the</p> <p>17 dirty transcript, at Page 201, Line -- I think I started</p> <p>18 reading -- I read Line 12 through Line 20. And that's</p> <p>19 of the transcript that we were sent last night, not the</p> <p>20 final.</p> <p>21 MR. FREDERICK: Thank you.</p> <p>22 Q. (By Ms. Maranzano) Would that surprise you</p> <p>23 Ms. McCoy?</p> <p>24 A. That she didn't remember?</p> <p>25 Q. That she has no idea if Mr. Beuck was involved</p>
<p style="text-align: center;">166</p> <p>1 were co-sponsors and joint sponsors. But my</p> <p>2 understanding is that there a number of other co-</p> <p>3 sponsors and joint sponsors who are not listed here.</p> <p>4 A. And those names were provided by Representative</p> <p>5 Harless's Office as people that were instrumental in</p> <p>6 specifically drafting, proposing, and developing Senate</p> <p>7 Bill 14. My assumption, when I signed this, was that</p> <p>8 the other members that supported the legislation didn't</p> <p>9 draft, propose, develop, or analyze the bill. They</p> <p>10 supported it, but they didn't do those four things.</p> <p>11 And so that's, I think, probably how these members got</p> <p>12 on the list and not every member.</p> <p>13 Q. And was the person who provided these names to</p> <p>14 you, Mr. Beuck?</p> <p>15 A. Yes.</p> <p>16 Q. And do you see that on Page 5, Mr. Beuck is,</p> <p>17 is also listed?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Would it surprise you to learn that</p> <p>20 Representative Harless testified yesterday that</p> <p>21 Mr. Beuck was not instrumental in drafting, developing,</p> <p>22 and passing SB 14?</p> <p>23 MR. FREDERICK: Object, mischaracterizes</p> <p>24 the testimony and assumes facts not in evidence.</p> <p>25 Q. (By Ms. Maranzano) Would you like to me to read</p>	<p style="text-align: center;">168</p> <p>1 in the development, drafting, and passing of SB 14?</p> <p>2 A. Yes.</p> <p>3 Q. Can you look at -- below Mr. Beuck's name on</p> <p>4 the interrogatories, Bryan Hebert and Julia Rathgeber?</p> <p>5 A. Uh-huh.</p> <p>6 Q. Can you tell me what Mr. Hebert's role was in</p> <p>7 the drafting of SB 14?</p> <p>8 MR. FREDERICK: Object on the grounds of</p> <p>9 legislative privilege. To the extent you can answer</p> <p>10 without revealing -- no, I'm going to object. I'm going</p> <p>11 to object to that on legislative privilege and instruct</p> <p>12 you not to answer.</p> <p>13 A. I'll assert privilege.</p> <p>14 Q. (By Ms. Maranzano) Can you tell me what</p> <p>15 Mr. Hebert's role was in analyzing SB 14?</p> <p>16 MR. FREDERICK: Object, legislative</p> <p>17 privilege. Instruct you not to answer.</p> <p>18 A. I'll assert privilege.</p> <p>19 Q. (By Ms. Maranzano) Can you tell me what</p> <p>20 Ms. Rathgeber's role was in assisting with the</p> <p>21 development of SB 14?</p> <p>22 MR. FREDERICK: Objection, legislative</p> <p>23 privilege. Instruct you not to answer.</p> <p>24 A. I'll assert privilege.</p> <p>25 Q. (By Ms. Maranzano) And at the bottom of Page 5,</p>

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<p style="text-align: center;">169</p> <p>1 the top of Page 6, do you see Mr. Battle is listed as</p> <p>2 somebody who assisted with the analysis of legal</p> <p>3 questions relating to SB 14. Can you tell me what legal</p> <p>4 questions Mr. Battle analyzed?</p> <p>5 MR. FREDERICK: Objection, legislative</p> <p>6 privilege. Instruct you not to answer.</p> <p>7 A. I'll assert privilege.</p> <p>8 MS. MARANZANO: And is that even on what</p> <p>9 issues he was looking at Mr. Frederick, what legal</p> <p>10 issues he --</p> <p>11 MR. FREDERICK: Yeah, that reflects the</p> <p>12 thought process in mental impressions.</p> <p>13 Q. (By Ms. Maranzano) And below Mr. Battle,</p> <p>14 Mr. Brunson is listed as involved in the development of</p> <p>15 SB 14. Can you tell me what his role was in the</p> <p>16 development of SB 14?</p> <p>17 MR. FREDERICK: Objection, legislative</p> <p>18 privilege. Instruct you not to answer.</p> <p>19 A. I'll assert privilege.</p> <p>20 Q. (By Ms. Maranzano) Can you turn to Page 7, and</p> <p>21 there's two individuals who are listed as staff members</p> <p>22 for Senator Tommy Williams, both Amanda Montague and</p> <p>23 Ryan Larue. Can you tell me why these two staffers are</p> <p>24 listed here, but Senator Williams is not?</p> <p>25 MR. FREDERICK: Again, this whole line of</p>	<p style="text-align: center;">171</p> <p>1 response to Interrogatory Number 1?</p> <p>2 A. No.</p> <p>3 Q. Why not?</p> <p>4 MR. FREDERICK: I object. It's attorney</p> <p>5 work product. I instruct you not to answer that</p> <p>6 question.</p> <p>7 Q. (By Ms. Maranzano) Are you following your</p> <p>8 counsel's advice not to answer?</p> <p>9 A. Yes.</p> <p>10 Q. In drafting SB 14, did you or the Senator</p> <p>11 review any studies or reports or analysis that you</p> <p>12 haven't already testified about today?</p> <p>13 MR. FREDERICK: You may testify to the</p> <p>14 fact of yes or no whether you did.</p> <p>15 A. Yes.</p> <p>16 Q. (By Ms. Maranzano) What were those?</p> <p>17 MR. FREDERICK: Objection, legislative</p> <p>18 privilege. Instruct you not to answer.</p> <p>19 Q. (By Ms. Maranzano) How many --</p> <p>20 A. Well, except that in the record, we referenced</p> <p>21 more recent polls, more recent public opinion polls.</p> <p>22 Those types of things weren't -- and they're in the</p> <p>23 record, so I'll tell you that they were there.</p> <p>24 Q. Were there any polls or reports or studies or</p> <p>25 analysis that you reviewed that are not in the public</p>
<p style="text-align: center;">170</p> <p>1 questioning I object to. I object to that question on</p> <p>2 the grounds of work product immunity.</p> <p>3 Q. (By Ms. Maranzano) Why don't we do this,</p> <p>4 Ms. McCoy. Can you just look through the list and tell</p> <p>5 me, as you sit here today, if this looks like a true and</p> <p>6 correct list of individuals involved in the drafting,</p> <p>7 development -- drafting, proposing, development or</p> <p>8 analysis of SB 14?</p> <p>9 MR. FREDERICK: May I also note for the</p> <p>10 record that the State -- I mean, as reflected in the</p> <p>11 exhibit, the State made numerous objections to the</p> <p>12 request, including overbreadth, undue burden.</p> <p>13 But you may answer to the extent you can.</p> <p>14 A. I think that potentially you could have listed</p> <p>15 every elected official and every legislator in this</p> <p>16 document. But I think this list is pretty complete,</p> <p>17 given that Senate Bill 14 and how it was developed.</p> <p>18 Q. (By Ms. Maranzano) Every -- every legislator in</p> <p>19 the Texas Senate could be listed as being involved in</p> <p>20 the drafting, development --</p> <p>21 A. Or analysis.</p> <p>22 Q. -- or analysis?</p> <p>23 A. They all had a thought. They all had talked</p> <p>24 about it. And if you wanted to just...</p> <p>25 Q. Did you consider listing every legislator in</p>	<p style="text-align: center;">172</p> <p>1 record?</p> <p>2 MR. FREDERICK: Again, I'll instruct you</p> <p>3 that you may answer to the question posed, which is a</p> <p>4 yes-or-no question.</p> <p>5 A. Yes.</p> <p>6 Q. (By Ms. Maranzano) And for the record, what</p> <p>7 were those?</p> <p>8 MR. FREDERICK: Objection, legislative</p> <p>9 privilege. Instruct you not to answer.</p> <p>10 A. I'll assert privilege.</p> <p>11 Q. (By Ms. Maranzano) How many were there?</p> <p>12 MR. FREDERICK: You know what, I'm going</p> <p>13 to object to that on legislative privilege and instruct</p> <p>14 you not to answer as well. That goes to thought</p> <p>15 processes and mental impressions.</p> <p>16 A. I'll assert privilege.</p> <p>17 Q. (By Ms. Maranzano) Who were the authors or who</p> <p>18 conducted these reports or studies?</p> <p>19 MR. FREDERICK: Objection, legislative</p> <p>20 privilege. Instruct you not to answer except to the</p> <p>21 extent that the question includes matters that are on</p> <p>22 the public record.</p> <p>23 A. The one in particular that's on the record is</p> <p>24 the one led by Lighthouse.</p> <p>25 Q. (By Ms. Maranzano) Ms. McCoy, did you consider</p>

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<p style="text-align: center;">173</p> <p>1 including any additional forms of identification in 2 SB 14?</p> <p>3 MR. FREDERICK: Objection, legislative 4 privilege. Instruct you not to answer the question. 5 A. I'll assert privilege. 6 Q. (By Ms. Maranzano) Did you consider including 7 identification forms that had expired? 8 MR. FREDERICK: Objection, legislative 9 privilege. Instruct you not to answer. 10 A. Except that -- the answer is yes, and there's 11 an amendment where we -- the original bill required it 12 to be valid and the amendment allowed expired photo IDs 13 to be used. 14 Q. (By Ms. Maranzano) And under SB 14, are you 15 allowed to use identification that has expired for a 16 length of time that is greater than 60 days? 17 A. No. 18 Q. So you're referring to the amendment that 19 allowed for identification, certain forms of 20 identification in SB 14 to be expired for 60 days -- 21 A. Yes, ma'am. 22 Q. -- prior to the presentation? Thank you. 23 What was the purpose of excluding from 24 SB 14 the option that a voter could present two forms of 25 nonphoto ID?</p>	<p style="text-align: center;">175</p> <p>1 A. That's correct. 2 Q. Okay. Ms. McCoy, how often does a driver's 3 license photo need to be renewed? 4 A. I don't know. 5 Q. Do you know how often a driver's license needs 6 to be renewed? 7 A. Six years. 8 Q. Did you think it was an important consideration 9 to look into whether -- how recent a photo would be on 10 one of the forms of identification that you were 11 requiring under SB 14? 12 MR. FREDERICK: Objection, legislative 13 privilege. Instruct you not to answer. 14 A. I'll assert. 15 Q. (By Ms. Maranzano) Pursuant to SB 14, who will 16 be verifying the voter's identity when they -- well, who 17 looks at the -- 18 A. The election worker. 19 Q. And how would they do that? 20 MR. FREDERICK: Objection to the extent it 21 calls for speculation. If you know, you can answer. 22 A. I think the legislation is designed for the 23 Secretary of State to write rules to implement that 24 provision. 25 Q. (By Ms. Maranzano) Do you know if there's going</p>
<p style="text-align: center;">174</p> <p>1 MR. FREDERICK: Objection, legislative 2 privilege. Instruct you not to answer. 3 Q. (By Ms. Maranzano) What changed between 2009 4 and 2011 that would impact what forms of voter -- what 5 forms of identification would verify a voter's identity? 6 MR. FREDERICK: I object on legislative 7 privilege. To the extent there are matters in the 8 record that you can identify, you're free to do so, but 9 don't go beyond that. 10 A. On the record, Senator Fraser said he thought 11 the additional two years from 2009 to 2011 provided us 12 the opportunity to see that the states that had voter ID 13 were not -- that it was working. 14 Q. (By Ms. Maranzano) What do you mean by that? 15 A. That people were still voting, that turnout was 16 still fine, that there hadn't been any voter had come 17 forward that had been unable to vote. 18 Q. And are you referring to anything other than 19 what we already talked about with the Senator having 20 presented the actual turnout rates from Georgia and 21 Indiana? 22 A. No. 23 Q. And so I believe we discussed that the Senator 24 didn't do any -- whether the Senator did any additional 25 research other than looking at the turnout rates?</p>	<p style="text-align: center;">176</p> <p>1 to be additional training given to poll workers on that 2 topic? 3 A. I think under Senate Bill 14, the Secretary of 4 State is instructed to provide additional training. 5 Q. Did you discuss any of these regulations with 6 the Secretary of State's Office? 7 MR. FREDERICK: I'll object on legislative 8 privilege. To the extent it calls for communications 9 between you, Senator Fraser, and the Secretary of 10 State's Office about SB 14 or any other pending 11 legislation. 12 A. I'll assert privilege. 13 MS. MARAZANO: And just for the record to 14 be clear, are you asserting privilege over the fact of 15 whether or not she had a conversation with the Secretary 16 of State's Office? 17 MR. FREDERICK: I did not intend to, so if 18 you want to reask the question, I'm not intending to 19 prevent you from discovering that. 20 Q. (By Ms. Maranzano) Did you have conversations 21 with the Secretary of State's Office about SB 14? 22 A. Yes. 23 Q. How many? 24 A. Five or six. 25 Q. And when were those?</p>

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<p style="text-align: center;">177</p> <p>1 A. After the bill was filed, but prior to it being 2 heard in committee. 3 Q. Were those conversations in writing or verbal? 4 A. Verbal. 5 Q. Was anybody else a party to those 6 conversations? 7 A. Yes. 8 Q. And who was that? 9 A. Bryan Hebert. 10 Q. Anyone else? 11 A. I'm trying to think. It all runs together. 12 Ryan Larue, I think, was in on one of those meetings. 13 Amanda Montague, I think, was in on one of those 14 meetings. 15 Q. Anyone else? 16 A. I don't think so. 17 Q. And were those meetings about how SB 14 would 18 be implemented? 19 MR. FREDERICK: I want to just caution the 20 witness, the question asked, you may answer, but please 21 don't reveal the substance of any communication. 22 THE WITNESS: Right. 23 A. Yes. 24 Q. (By Ms. Maranzano) And what were the nature of 25 those conversations?</p>	<p style="text-align: center;">179</p> <p>1 Q. (By Ms. Maranzano) What was the purpose of 2 removing from SB 14 the option for voters to show a 3 valid employee ID? 4 MR. FREDERICK: Objection, legislative 5 privilege. Instruct you not to answer. 6 Q. (By Ms. Maranzano) Did any legislators express 7 concern to Senator Fraser that the election 8 identification certificate pursuant to SB 14 would be 9 difficult for their constituents to obtain? 10 MR. FREDERICK: I'll object on legislative 11 privilege. However, to the extent any concerns were 12 raised on the Floor in committee, you may testify about 13 that. 14 A. I don't recall. Yeah. That was added by the 15 conference committee, and so I -- the debate on the bill 16 at that point, I don't think anybody raised it on the 17 Floor. 18 Q. (By Ms. Maranzano) Prior to the addition of 19 the election identification certificate, was there a 20 provision that allowed for a different sort of 21 pre-identification in SB 14? 22 A. Yes. 23 Q. And was that a form of identification that 24 needed to be obtained at driver's license offices? 25 A. Yes, ma'am.</p>
<p style="text-align: center;">178</p> <p>1 MR. FREDERICK: Object on the basis of 2 legislative privilege. Instruct you not to answer. 3 A. I'll assert privilege. 4 Q. (By Ms. Maranzano) Ms. McCoy, wouldn't it be 5 fair to say that the standards by which a poll worker is 6 going to verifying the identity of a voter is pretty 7 central to the purpose of SB 14? 8 MR. FREDERICK: Objection. Objection, 9 calls for speculation. Objection to the extent it calls 10 for thoughts and mental impressions about SB 14. I 11 object on the basis of legislative privilege and 12 instruct you not to answer. 13 A. I'll assert privilege. 14 MS. MARANZANO: Let's take a break. 15 (Recess from 3:46 p.m. to 3:56 p.m.) 16 MS. MARANZANO: Back on the record. 17 Q. (By Ms. Maranzano) Ms. McCoy, you testified 18 earlier that under SB 362, a voter could show a state or 19 a federal-issued photo ID; is that correct? 20 A. Yes, ma'am. 21 Q. What was the purpose of removing that form of 22 photo identification from the required forms of ID 23 allowed under SB 14? 24 MR. FREDERICK: Objection, legislative 25 privilege. Instruct you not to answer.</p>	<p style="text-align: center;">180</p> <p>1 Q. And does the election identification 2 certificate also need to be obtained at driver's license 3 offices? 4 A. Yes, ma'am. 5 Q. Did anybody testify on the Floor about the 6 distance their constituents would need to travel to get 7 to a driver's license office? 8 A. Yes, ma'am. 9 Q. Did anybody testify on the Floor about the lack 10 of public transportation options available to driver's 11 license offices? 12 A. I don't specifically remember that point being 13 raised, but I'm sure it was. 14 Q. Did anybody testify on the Floor about the wait 15 times at driver's license offices? 16 A. Yes. 17 Q. Did anybody testify on the Floor about the cost 18 of obtaining the required underlying documentation to 19 obtain the identification that needed to be issued free 20 of charge under SB 14? 21 A. I don't specifically recall, but I assume yes. 22 Q. What was the Senator's response to these 23 concerns that were raised on the Floor? 24 MR. FREDERICK: I'll just object, 25 legislative privilege, only to the extent the question</p>